Thursday
17th May, 1956

सत्यमेव जयते

PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE

OFFICIAL REPORT

(Part I- Questions and Answers)

1956

PARLIAMENT SECRETARIAT
NEW DELHI

99LSD

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LOK SABHA

Thursday, 17th May, 1956

The Lok Sabha met at Half Past Ten of the Clock.

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

COFFEE

*2280. **Shri Wodeyar:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether there is a proposal to hold open auctions for the export of Indian Coffee;

(b) if so, the benefits by this system; and

(c) whether Government propose to set up an Export Promotion Council for Coffee and revive the Indian Coffee Market Expansion Board in London for expanding sales in Europe and the United Kingdom?

The Minister of Commerce (Shri Karmarkar): (a) Yes, Sir; as a trial measure for one year to start with.

(b) Open bids are expected to fetch higher prices for coffee than at present.

(c) The matter is under consideration.

Shri Wodeyar: May I know whether there is any agency in London at present to look after the sales of Indian coffee and whether the Government has recognised that agency?

Shri Karmarkar: The normal agency—the Trade Minister in London looks after these matters. There was a separate agency before the war but now it is not there.

Shri Wodeyar: What is the total value of coffee sales in London per annum and what is the difference in prices between the Indian and the British sales?

Shri Karmarkar: I could give the figures for the total exports but I have not separate figures for the London market as such. In 1954-55 the total exports were of the order of 3,625 tons and in 1955-56 we have allocated 5,100 tons out of which the actual quantity sold is 2,800 tons.

Shri Matthen: What is the quantity of coffee sold in Europe, especially West Germany?

Shri Karmarkar: I could not give separate figures for the West Germany or for any other country as such. I have given the total export figures.

Shri Matthen: What is the total sale in Europe? Is Indian coffee popular in Europe? Are they doing any propaganda there?

Shri Karmarkar: Our principal difficulty at the present moment is this. Our exports have to be limited in view of the large internal demand. When we grow sufficient coffee, it will be time for us to think in terms of greater exports. As it is our coffee is quite popular everywhere it goes.

Shri Keshavaiengar: May I know if Denmark wants Indian coffee, it has to purchase it from London? Why is it that Denmark is disabled from having direct imports from India?

Shri Karmarkar: We do not prohibit direct sales to Denmark or any other place. Possibly, there may be closer ties between the merchants of Denmark and the London merchants and they may be habituated to purchase in England.

DISPLACED PERSONS FROM EAST BENGAL

***2281. Shri Keshavaiengar:** Will the Minister of **Rehabilitation** be pleased to state:

(a) whether it is a fact that a novel scheme has been introduced to prepare fabrics combining both wool and jute to provide employment to Displaced Persons from East Bengal; and

(b) if so, with what result?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) A scheme has been sanctioned for training in woollenised spinning and weaving of jute goods, at the Technological Research Laboratory of the Indian Central Jute Committee, Calcutta.

(b) This scheme was sanctioned only in March, 1956. The results will be known some time after it is fully implemented.

Shri Keshavaiengar: May we know if the scheme would be brought about on a co-operative basis?

Shri J. K. Bhonsle: Not yet. The trainees are under training at the moment. Later on it will have to be either on a co-operative basis or on individual basis.

Shri B. S. Murthy: How many trainees are being given training here?

Shri J. K. Bhonsle: Fifty, every year.

Shri B. K. Das: May we have an idea of the main features of the scheme—the expenditure, duration, etc. of the scheme?

Shri J. K. Bhonsle: The duration is from a year to a year and a half. Fifty trainees will be trained every year. The essential features are: woollenised spinning on a cottage scale basis; weaving of woollenised jute goods, blankets, wrappers, etc. on handlooms as well as cottage power looms; dyeing, bleaching and finishing and blending of woollenised and natural jute with wool and other fibres; preparation of mixed yarns for knitting purposes; and other ancillary crafts such as designs, etc., maintenance of machines. The expenditure is in the neighbourhood of Rs. 1,27,200.

नाहन फाउण्डरी लिमिटेड

***२२८२. श्री भक्त दर्शन :** क्या **वाणिज्य और उद्योग** मंत्री ३ दिसम्बर, १९५५ के तारांकित प्रश्न संख्या ४४४ और २१ फरवरी १९५६, के तारांकित प्रश्न संख्या १२८ के उत्तरों के सम्बन्ध में यह बताने की कृपा करेंगे कि नाहन फाउंडरी लिमिटेड के मामलों की जांच करने के लिये नियुक्त की गई समिति की रिपोर्ट पर अन्तिम निर्णय करने की दिशा में अब तक क्या प्रगति हुई है ?

औद्योगिक विकास मंत्री (श्री एम० एम० शाह) : शीघ्रता से निर्णय करने में प्रमुख कठिनाई यह थी कि जांच समिति को जिन विषयों की जांच का काम सोंपा गया था, उनमें से प्राय: सभी प्रमुख मुद्दों पर दो सदस्यों के अलग अलग मत थे और उन्होंने अलग अलग प्रकार की सिफारिशें की हैं। इसलिये सरकार को हर मुद्दे का पर्याप्त विस्तार के साथ अध्ययन करना पड़ा ह और अब वह कुछ परिणामों पर पहुंची हैं। इन परिणामों के विषय में हिमाचल प्रदेश के मुख्य मंत्री से विचार-विनिमय किया गया, और वह उनसे सामान्यत: सहमत हैं। आशा है कि सरकार का निर्णय २ से ३ सप्ताह के अन्दर घोषित हो जायेगा ।

श्री भक्त दर्शन : मुझे इस बात को जानकर प्रसन्नता हुई कि आखिर गवर्नमेंट नें कई महीनों के बाद इसको स्वीकार कर लिया है कि जिन सज्जनो की एक समिति बनाई गई थी उनके बीच में ही मतभेद पैदा हो गए थे । क्या मंत्री महोदय यह बताने की कृपा करेंगे कि उन मतभेदों का स्वरूप क्या है तथा किन किन बातों पर खास मतभेद हैं ?

श्री एम० एम० शाह : तकरीबन हर एक मोटे मामले पर उनकी रायें अलग अलग है । यही वजह है कि सरकार को उनका अच्छी तरह से अध्ययन करना पड़ा है ।

श्री भक्त दर्शन : क्या यह सत्य है कि हाल ही में कुछ दिन पहले माननीय मंत्री जी ने स्वयं नाहन जाकर के फाउंडरी का निरीक्षण किया था ? यदि हां, तो क्या मैं जान सकता हूं कि उनके जाने बाद वहां की परिस्थितियों में क्या कोई फर्क पड़ा है और क्या वहां क कर्मचारियों को उन्होंने कोई आश्वासन दिए हैं ?

श्री एम० एम० शाह : जी हां, मैं वहां पिछले सप्ताह गया था और मज़दूर मित्रों से मेरी बात हुई थी और मैं आशा करता हूं कि थोड़े ही समय में इस सारे मामले का फैसला हो जायगा ।

श्री भक्त दर्शन : नाहन फाउंड्री के बारे में जो सिफारिश एस्टीमेट्स कमिटी ने की थी, क्या उस पर कोई निर्णय कर लिया गया है और क्या इस बात का कोई फैसला किया गया है कि आया इसका केन्द्रीय सरकार द्वारा संचालन होना चाहिये या हिमाचल प्रदेश की सरकार द्वारा तथा इसको नाहन से अम्बाला या दूसरी जगह ले जाया जाये ।

श्री एम० एम० शाह : फिलहाल तो उसे भारत सरकार ही चलायेगी ।

MONAZITE SANDS

***2287. Shri A. M. Thomas:** Will the **Prime Minister** be pleased to state:

(a) whether it is a fact that an Andhra University Team of Geologists estimated the possibility of exploiting several thousands of tons of Thorium bearing Monazite sands in the Andhra State beaches; and

(b) if so, the steps taken to utilize them?

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): (a) and (b). A field party of the Department of Atomic Energy working under the supervision of the Head of the Geology Department of Andhra University is engaged on estimation of reserves of Ilmenite and Monazite in the Andhra State beaches. This work is still in progress and the question of utilisation of Monazite sands available does not arise at this stage.

Shri A. M. Thomas: May I enquire whether any report has been received from the team mentioned in the question? May I also enquire whether it has reached that stage where it has to be taken up for exploitation by the Raw Materials Division of the Atomic Energy Commission?

Shri Jawaharlal Nehru: It is the Atomic Energy Department that is dealing with this matter. The Andhra University professors and students are working under the direction of the Atomic Energy Department. The reports thus far received—they are interim reports—are fairly encouraging. The final reports have not yet come. Obviously if the reports are good, action will be taken there subject to this that for the moment we have quite enough of this material in the Travancore beaches.

Shri A. M. Thomas: From the reports so far received, may I enquire whether on examination it was found to be a sound financial proposition to exploit the resources there?

Shri Jawaharlal Nehru: I said that these were interim reports. I have not got the reports here. All I know is that the initial reports are encouraging, whatever that may mean. But, so far as finances are concerned, it is not a thing which is normally taken to the world markets because these are protected minerals, strategic minerals. They may always be useful, unless they are in very small quantities so that it is very difficult to extract them.

Shri Kamath: Is it a fact that under the aegis of the Department of Atomic Energy, a thorium production plant has been constructed, and if so where is it located? How many tons of thorium is it expected to produce per annum?

Shri Jawaharlal Nehru: I cannot give these specific replies without proper notice, Sir.

Shri B. S. Murthy: May I know whether these monazite sands are available in large quantities in Andhra?

Mr. Speaker: That has been answered.

Shri Jawaharlal Nehru: That is the enquiry being made. They are there. In what quantities they are there, definitely, we cannot say. But on the whole it appears that they are there in fair quantities.

Shri S. V. Ramaswamy: Some time ago the hon. Prime Minister was pleased to say that monazite sands are available in the Madras beach also. Is it contiguous with the Andhra beach?

Shri Jawaharlal Nehru: I do not know, Sir.

TRAINING CENTRE AT NILOKHERI

***2288. Dr. Satyawadi:** Will the Minister of **Production** be pleased to state the progress so far made in the matter of opening a training centre at Nilokheri in the State of Punjab by the All India Khadi and Village Industries Board?

The Deputy Minister of Production (Shri Satish Chandra): Action is being taken to obtain possession of the land, to recruit the staff and to procure equipment required for the centre. A proposal to start the centre in tents, pending construction of buildings, is also under consideration.

डा० सत्यवादी : यह मामला कितनी देर तक तय हो जायेगा ?

श्री सतीशचन्द्र : कुछ महीनों के अन्दर ही इसका फैसला हो जाना चाहिये । जमीन के बारे में पंजाब गवर्नमेंट से बात-चीत हो रही है।

डा० सत्यवादी : क्या मैं जान सकता हूं कि इस सैन्टर में किन किन दस्तकारियां की तालीम का इन्तजाम किया जा रहा है ?

श्री सतीशचन्द्र : उस में खादी की कताई और बुनाई, तेल घानी, चर्मकारी का काम और दूसरे ग्रामोद्योग सिखाये जायेंगे । खादी बोर्ड के अन्तर्गत सभी उद्योग इस में आते हैं ।

Shri B. S. Murthy: In today's papers it is reported that the administration of Nilokheri area will be taken over by the Centre. May I know whether that has been under contemplation by the Government?

Shri Satish Chandra: This centre has nothing to do with that matter. This is a separate centre to be established by the All India Khadi and Village Industries Board, in addition to the existing arrangements there.

श्री हेमराज : क्या इस सैन्टर में अम्बर चर्खे की कताई का काम भी सिखाया जायेगा ?

श्री सतीश चन्द्र : खादी बोर्ड पर जिन उद्योगों की जिम्मेदारी है, वे सभी इस सन्टर में सिखाये जायेंगे ।

सेठ अचल सिंह : इस ट्रेनिंग सैन्टर में कितना रुपया खर्च किया जायेगा ?

श्री सतीशचन्द्र : करीब करीब साढ़े तीन लाख रुपया खर्च होना है ।

डा० सत्यवादी : क्या यह तय कर दिया गया है कि इस सैन्टर में कितने ट्रेनिज लिये जायेंगे ?

श्री सतीश चन्द्र : इस के लिये नोटिस चाहिये ।

TERRITORIAL WATERS

***2289. Shri B. S. Murthy:** Will the **Prime Minister** be pleased to state:

(a) whether any attempt is made to have treaties on territorial waters with maritime countries like Burma and Ceylon and other neighbouring countries for mutual assistance and salvage in times of distress in each other's territorial waters; and

(b) if so, the results thereof?

The Parliamentary Secretary to the Minister of External Affairs (Shri Sadath Ali Khan): (a) and (b). No.

Shri B. S. Murthy: May I know whether any attempts are being made to demarcate the fishing rights of India?

Shri Sadath Ali Khan: The matter is under consideration. But it is proposed to control fishing activities in the high seas situated within 100 miles from the outer limit of the territorial seas of India.

Shri B. S. Murthy: May I know whether the neighbouring countries have made any proposal about such agreements or whether the Government of India has not been contemplating of such agreements?

Shri Sadath Ali Khan: There is no intention so far, Sir, to enter into an agreement with any country on the subject of territorial waters.

Shri Kasliwal: This question relates to mutual assistance and salvage in times of distress. May I know whether the Government have any information as to whether treaties of such kinds have been entered into by other countries?

Shri Sadath Ali Khan: I cannot say so now.

Shri V. P. Nayar: May I know whether it is a fact that some time before there were some negotiations between the Government of Ceylon and the Government of India regarding the fixation of limits for fishing in extra territorial waters? May I also know whether the Government are aware that the Ceylonese Fishing Craft are using what is called the 'Wadge Bank' for fishing?

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I am afraid, we have not got the information to answer that question.

Shri V. P. Nayar: May I enquire from the Government whether the Government have any information regarding the continuous exploitation of an area in the 'Wadge Bank' which will come within 100 miles of India's coast?

Shri Jawaharlal Nehru: I could not follow the question.

Mr. Speaker: What is that area—Wadge Bank?

Shri V. P. Nayar: The hon. Parliamentary Secretary stated that with regard to areas within 100 miles there were some agreements.

Shri Sadath Ali Khan: It is a proposal.

Shri V. P. Nayar: May I know at what stage it is today?

Shri Jawaharlal Nehru: Obviously, when we say 100 miles, sometimes the 100 miles may overlap over somebody-else's 100 miles. Therefore, some agreement has to be arrived at. It may even reach the other territory. Then obviously it won't apply. So, all these adjustments have to be made.

KANNAN DEVAN HILLS PRODUCE COMPANY LIMITED, TRAVANCORE-COCHIN

***2290. Shri V. P. Nayar:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether it is a fact that the Kannan Devan Hills Produce Company Limited, has the biggest Estate in the Travancore-Cochin State;

(b) if so, the area of land in the possession of that company;

(c) the total investment of the Company so far in Travancore-Cochin State; and

(d) the total profits exported by the Company till the end of the financial year 1955-56 ?

The Minister of Commerce (Shri Karmarkar): (a) Yes, Sir.

(b) The area in possession of the Company is reported to be about 215 square miles. It is understood that an area of 26,449 acres is under tea and 3,350 acres under other plantation crops in Travancore-Cochin State.

(c) Information is not readily available.

(d) Information is not available.

Sir, I should like to add under (c) and (d), that what is meant there is that no official information is available. But according to publications by private parties, namely, *Investors' Encyclopaedia*—1954, Compiled by Messrs. Kothari and Sons, Madras, and the *Tea Producing Companies*—1954 published by Messrs. De Zeoto and Gorton, London, the authorised and subscribed capital of the company appear to be: authorised capital: £1,500,000 and issued and subscribed capital: £1,300,000. The net profit after deducting tax during 1954 appears to be £ 6,44,419.

Shri V. P. Nayar: Sir, it is very difficult to follow such a long answer. Had this statistical information been available in the form of a statement, it could have been taken advantage of for putting supplementaries.

Now, I want to know whether the Government are aware that year by year this company is exporting profits which will form a substantial percentage of the total investment so far.

Shri Karmarkar: Will he kindly repeat?

Shri V. P. Nayar: I want to know whether the Government are aware that this company, which is a company incorporated in England, is exporting profits which covers a substantial percentage of the total investment every year.

Shri Karmarkar: I have given the figures according to the private publications I mentioned. My hon. friend can calculate.

Mr. Speaker: He said, an investment of £ lakhs and a profit of £ 6 lakhs.

Shri Karmarkar: According to private authorities.

Shri V. P. Nayar: It makes about 40 to 45 per cent. of the total investment as profits for the year.

Mr. Speaker: We are not on inferences here.

Shri V. P. Nayar: May I know whether the Government have any information regarding the price paid for these 215 square miles of land? May I also enquire whether the Government are aware that the company has paid only a nominal sum several decades ago to acquire this vast territory which is about one-thirty sixth of the whole State?

Shri Karmarkar: We have no information on that point.

Shri A. M. Thomas: May I enquire whether it is a fact that a substantial portion of the sales tax revenue as well as agricultural income tax revenue of Travancore-Cochin comes from this company? May I also enquire whether there has been any negotiation recently between this company and some private parties in India to sell these estates?

Shri Karmarkar: Regarding the first part of the question, as my friend is good at figures, I am prepared to take his information. Regarding the second part I have no information; perhaps the Madras Government must have the information—now it is Travancore-Cochin Government.

Shri Punnoose: The hon. Minister stated that an area of 215 square miles is in the possession of the company. May I know whether it was a straight sale or was it taken on lease by the company?

Shri Karmarkar: As I said, we have no information on this point. The Travancore-Cochin Government must have the information.

Shri Punnoose: May I know whether the Government are aware of the fact that this company has taken this area on lease for a period of 99 years—that is cultivated area—and the fact is that.........

Mr. Speaker: Order, order. The hon. Member put a question to elicit an answer. The hon. Minister replied that the information is in the possession of the Government of Travancore-Cochin. Now the hon. Member is giving the answer. He also said that there is a lease for 99 years and all that. Then, why did he put the question?

Shri Punnoose: I wanted to know whether the Minister is in possession of facts.

Mr. Speaker: He may or may not be in possession of facts. I am not going to allow such questions. This is not an examination hall where Ministers are being cross-examined. The hon. Members can only elicit answers.

Shri V. P. Nayar: May I know whether the Government have now under contemplation any proposal for nationalising this particular estate which belongs to a company incorporated in England and which has about 1/36th of the entire area of Travancore-Cochin State?

Mr. Speaker: The hon. Member can only put a question. But he is assuming that this company has got 1/36th of the total area and he is assuming various other things also.

Shri Punnoose: I rise to a point of order. Here is a question about Kannan Devan Hills Produce Company and as Members of this House representing that State where this company is working, it is for us to know whether the Government are in possession of facts. What is wrong about it, I do not understand.

Mr. Speaker: My only point is that figures such as 1/36th or 1/40th, etc., need not be given by the hon. Members. If the hon. Minister does not answer it, do the hon. Members mean that those figures are correct? The question-hour ought to be utilised only for the purpose of eliciting answers which the hon. Members may not know. Again, in asking for answers, they should not assume things and place them before the House. It is not correct. If the Minister is not able to say the exact figure, does it mean that what the hon. Members have said is correct?

Shri Punnoose : We may have some information with us, but it does not become an authorised one unless it is officially approved by the Government.

Mr. Speaker: It is not so.

Shri V. P. Nayar: In the case of answers like this, I suggest that the Government should be asked to give us at least advance information by way of a statement when alone it would become possible for us to put supplementary questions. I cannot remember all the figures that the Minister has read out.

Shri Karmarkar: It is not my fault if the hon. Member could not remember the figures. I think I was loud enough in giving the answer. In regard to the particular question about the extent of land in the whole State when compared to the estate held by this company, the hon. Members know that full information is easily available. We try to supply the information to the hon. Members with as great a promptitude as possible.

Mr. Speaker: The point is, there is now no State legislature functioning there. Questions will have to be put to this House regarding matters in that State, consequently. I can only suggest that whenever any hon. Minister finds that the answer cannot be completed in a few sentences and that the answer is full with figures, he would try, as far as possible, to place the information in the Notice Office so that the hon. Members who want to put supplementary questions may have an opportunity to look into it and be prepared to put supplementary questions. I leave the decision to the hon. Minister himself. If he finds that the answer is full of figures and if it extends to some pages, the information may be placed in the Notice Office so that the Members may have sufficient opportunity to look into it and put supplementary questions.

Shri Karmarkar: I may submit this with all respect to the House. If the hon. Members give us a specific notice of the information that they want, we shall certainly try to supply it. As you know, in answer to part (b) of the question, I have given the answer as follows:

> "The area in possession of the company is reported to be about 215 square miles. It is understood that an area of 26,449 acres is under tea and 3,350 acres under other plantation crops in Travancore-Cochin State".

So, with regard to the area and all that, we are ready with the reply. If they want us to conduct research in the Ministry, we shall be able to do so but on notice.

Mr. Speaker: Even with regard to the information that the Minister has given, when the figures are there, the hon. Member will not find it easy to remember the figures off-hand as soon as the answer is given. In such cases as the present one, the answer that is given in the House may be placed in the Notice Office 15 minutes earlier, so that the hon. Members may look into it. There is no complaint about the manner in which the hon. Minister has answered the question. Next question.

AMBAR CHARKHA

***2291. Shri Radha Raman:** Will the Minister of **Production** be pleased to state:

(a) whether the Committee to go into the technical and economic aspects of Ambar Charkha have submitted its report to Government; and

(b) if so, what are its principal recommendations and whether they are accepted by Government?

The Deputy Minister of Production (Shri Satish Chandra): (a) No Sir.

(b) Does not arise.

Shri Radha Raman: May I know whether the Government of India, as per the recommendations of the Khadi and Village Industries Board, has ordered for the manufacture of Ambar Charkha and what is the total number so ordered?

Shri Satish Chandra: The hon. Member is perhaps aware that 6,000 Ambar Charkhas were sanctioned as part of a pilot project sponsored by the All-India Khadi and Village Industries Board. After that, another 10,000 Ambar Charkhas have been sanctioned so that further experiments could go on in the larger field. The Khadi and Village Industries Board has not submitted so far a report on the pilot project.

Shri Radha Raman: In view of the recent report which appeared in the press, may I know whether the Government has actually deputed some one to look into the technical side and the economic side of the Ambar Charkha and whether it is being examined with a view to find out whether it can provide employment to the educated unemployed in the country?

Shri Satish Chandra: A committee has been set up to enquire into the technical and economic aspects. This is exactly what the hon. Member has asked in his question and I have answered it.

Pandit D. N. Tiwary: May I know whether the hon. Minister is aware that in the last session, the hon. Minister of Planning stated that the experiments on the technical side of the Ambar Charkha would be completed by May, 1956, and if so, may I know what led to this delay so far?

Shri Satish Chandra: May is still not over. We hope to get the report of the committee by the end of May, provided the reports of the Board itself and of the other laboratories where the charkha and its yarn are being tested are available.

Shri Dabhi: May I know when the report is likely to be completed? The hon. Minister said, "by the end of May" ?

Shri Satish Chandra: It all depends upon the information to be given to us by the Board. They have to submit a report on the pilot projects. Similarly the two laboratories at Ahmedabad and Matunga near Bombay have also to give the report. Those laboratories are working on it and testing it. Then the economic aspect has to be examined for which a questionnaire has been issued. The replies to this questionnaire must come in before any report can be submitted by the commitee.

Shri G. P. Sinha: May I know how many Ambar Charkhas are now under the Khadi and Village Industries Board and what progress has been made?

Shri Satish Chandra: 6,000 Ambar Charkhas are working and another 10,000 have been sanctioned.

Shri G. P. Sinha: I want to know how it is progressing. Is it to the satisfaction of the Government?

Shri Satish Chandra: This is what the committee is expected to go into.

Shri R. P. Garg: What is the opinion of the Government in regard to the recent suggestions by Acharya Vinobha Bhave that every villager should have an Ambar Charkha, and may I know by what time every villager will have an Ambar Charkha?

Shri Satish Chandra: All these matters will be examined after the receipt of the committee's report.

Shri Radha Raman: May I know whether in view of the report which is expected from this committee the original plan of getting a very large quantity of Ambar Charkha manufactured in the country is amended and, if so, to what extent?

Shri Satish Chandra: Nothing has been amended so far. 6,000 Ambar Charkhas, as I said, are working as part of a pilot project. In order to ensure that the work does not come to a stand-still, another 10,000 Ambar Charkhas have now been sanctioned but the decision on the larger scheme for 25 lakhs Ambar Charkhas has to be considered in the light of the facts that will be available as a result of the committee's report.

D.V.C.

***2292. Shri S. C. Samanta:** Will the Minister of **Irrigation and Power** be pleased to state:

(a) whether a screening Committee to assess jobs in D.V.C. has been set up;

(b) if so, the personnel of the Committee; and

(c) whether any representative of the Staff Association has been taken in the Committee?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) No Sir.

(b) and (c). Do not arise.

Shri S. C. Samanta: Is it not a fact that the hon. Minister, on the 14th March, 1956, gave a word to the Staff Association during his discussion with them that very soon this screening committee would be formed ?

The Minister of Planning and Irrigation and Power (Shri Nanda): There were two things in view. One was to make the assessment of the requirements of the D.V.C. over a subsequent period, that is, after the work on the Maithon project is completed, for the purpose of maintenance, etc. The other was to secure for the people who have to be retrenched from the Maithon project, employment in any other project in the country. What I had said and had in mind was that for the purpose of the assessment regarding the future needs of the Maithon project there would be some officers who will meet and look into the matter and that they would also consult the staff association. I suppose that has been done.

Shri S. C. Samanta: Is it not a fact that the Government will have to retrench many persons when the Maithon Project is being completed, and if so, may I know whether the assessment of jobs in D.V.C. has been taken up in right earnest so that the retrenched persons may not have to wait for long?

Shri Nanda: A considerable number of people working in that project will have to find work elsewhere, because the maintenance requirements are very limited, about 40 employees only and the rest of them will have to go elsewhere. We are giving them all possible assistance to find jobs elsewhere.

Shri N. B. Chowdhury: May I know whether pending assessment of jobs elsewhere, any step has been taken to postpone retrenchment of the D.V.C. employees for the present?

Shri Nanda: There has been some postponement already. The D.V.C. and the Government have been endeavouring to make certain arrangements for the purpose of securing employment for these elsewhere. We must say that we have done our best before we ask them to go. That has been practically completed.

Shri G. P. Sinha: May I know the present strength of surplus employees in D.V.C. ?

Shri Nanda: There are at the moment 4 categories of employees in all. 365 regular employees are not affected. There are 2782 work-charged employees. Then there are muster rolls and contract labour, who are not concerned in this matter. Only the category of 2782 work-charged employees is going to be involved in this retrenchment.

Pandit D. N. Tiwary: May I know whether Government has considered the prospects of re-employing these employees in Gandak project, which is sought to be taken up?

Shri Nanda: Government will take into consideration not only the Gandak Project but every project that is already working or is in sight.

मद्रास का लुंगी का कपड़ा

*२२६३. **श्री अनिरुद्ध सिंह :** क्या **वाणिज्य और उद्योग** मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि मद्रास का लुंगी का कपड़ा अमेरिका में अधिकाधिक लोकप्रिय हो रहा है;

(ख) यदि हां, तो सरकार ऐसे वस्त्र के लिये अमेरिका में स्थायी बाजार बनाने के लिये क्या कार्यवाही करना चाहती है; और

(ग) क्या इस वस्त्र के विक्रय के लिये अमरीकी व्यापारियों से कोई बातचीत हुई है ?

उद्योग मंत्री (श्री कानुनगो) : (क) जी हां । निर्यात के आंकड़ों से ऐसी प्रवृत्ति प्रकट होती है ।

(ख) ऐसे उपाय किये जा चुके हैं जिनसे इस समय पैदा हुई दिलचस्पी बनी रहेगी ।

(ग) सरकारी स्तर पर कोई बातचीत नहीं हुई ।

श्री अनिरुद्ध सिंह : क्या मैं जान सकता हूं कि चालू वर्ष की पहली तिमाही मे मद्रासी लुंगी तथा और प्रकार की हाथ कर्घे से बनी हुई वस्तुओ के लिये अमरीका से कितना मूल्य के आर्डर प्राप्त हुए?

श्री कानुनगो : इस के अलग आंकड़े नहीं रहते हैं, लेकित एसी प्रवृति पाई जाती है ।

Shri B. S. Murthy: May I know whether the Government has made any agreement with the American traders for popularising *lungis*?

Shri Kanungo: No, it is not possible to have any sort of long-term contracts, because it is a new product which is being introduced in that part of the country. As a result of whatever steps we have taken, we hope that the interest shown so far will be kept up.

Shri Dhusiya: May I know whether the trade is carried on by private agencies or by some recognised societies?

Shri Kanungo: There are a large number of dealers dealing in it. We have a Fabric Society which is likely to take up that business.

Shri Keshaviengar: May I know whether it is a fact that Madras *lungi* is more popular among the female section of the people than in the male section?

Shri Kanungo: We are not aware of it.

Shri G. P. Sinha: May I know the quantity of *lungis* exported?

Shri Kanungo: We do not keep separate figures for lungis, because there are hundreds of varieties of cloth exported.

Shri Matthen: May I know whether the *lungi* is used in public or in private as pyjamas?

Mr. Speaker: Order, order. I am going to the next question.

Shri Kanungo: The *lungi* is made into clothes.

राजस्थान में छोटे पैमाने के उद्योग

*२२९५. **श्री पी० एल० बारुपाल :** क्या **वाणिज्य और उद्योग** मंत्री यह बताने की कृपा करेंगे कि :

(क) छोटे पैमाने के उद्योगों के विकास के लिये १९५५–५६ में राजस्थान सरकार को कितनी रकम मंजूर की गई; और

(ख) उन उद्योगों के नाम क्या हैं और उनके लिये अलग अलग कितनी कितनी राशियां आवंटित की गईं ?

उद्योग मंत्री (श्री कानुनगो) : (क) ६,५९,०८५ रु०

(ख) सदन के पटल पर एक विवरण-पत्र प्रस्तुत किया जाता है। **[देखिये परिशिष्ट १३, अनुबन्ध संख्या ५७]**

श्री पी० एल० बारूपाल : क्या मैं जान सकता हूं कि राजस्थान में ऊन का उत्पादन बढ़ाने के लिये गावों में भेड़ें पालने वालो को प्रोत्साहन देने के लिये सरकार क्या कदम उठा रही है?

श्री कानूनगो : इस विवरण से प्रकट होता है कि राजस्थान गवर्नमेंट ने जिस चीज के लिये रकम मांगी थी, वह उस को मिल गई है ।

INTERIM COMPENSATION SCHEME

***2296. Shri Gidwani:** Will the Minister of **Rehabilitation** be pleased to state:

(a) the total number of claimants who were paid compensation under the Interim Compensation Scheme; and

(b) the number among them who have been paid the balance of compensation payable to them under the final Compensation Scheme?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) 76,249.

(b) 5,096 (Upto 31st March, 1956).

Shri Gidwani: How long will it take to pay the balance of the remaining payments?

Shri J. K. Bhonsle: The question of employing extra staff is under the very active consideration of our Ministry. Once the staff is sanctioned, I hope it will be speeded up.

Sardar Iqbal Singh: May I know the number of claimants who have been granted priorities and the number of persons who have been actually paid up to the end of 31st March?

Shri J. K. Bhonsle: There are 8 categories of claimants who have been given priority. I am afraid I cannot give the separate figures just now. If a separate question is Tabled. I shall give those figures. As regards the second part of the question, we have paid so far 1,15,660 claimants and the amount paid is Rs. 27,79,23,410.

RESIDENTIAL BUILDINGS

***2297. Shri Madiah Gowda:** Will the Minister of **Works. Housing and Supply** be pleased to state:

(a) whether any programme of construction of residential buildings for Central Government officers in Bangalore has been drawn up; and

(b) if so, the amount sanctioned for that purpose for the years 1955-56 and 1956-57?

The Parliamentary Secretary to the Minister of Works, Housing and Supply (Shri P. S. Naskar): (a) No, Sir.

(b) Does not arise.

Shri Madiah Gowda: Is it not a fact that a large sum of money is paid by way of rent for residential and official buildings for the several departments in Bangalore?

Shri P. S. Naskar: Certain amounts are paid; but, I do not accept that they should be called large amounts.

Shri B. S. Murthy: May I know whether there are no Central Government lands available in the city of Bangalore? If there are lands, what prevents the Government from drawing up plans for the construction of their own buildings instead of paying annual rents?

Shri P. S. Naskar: The Government does not take the position that there are no lands. It is not for that reason that the buildings are not being constructed. They are not constructed because the pressing necessity for it has not yet been felt.

AMRITSAR AS "PORT TOWN"

***2300. Dr. Ram Subhag Singh:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether the Punjab Government have approached the Government of India for declaring Amritsar as a "Port Town"; and

(b) if so, whether Government have taken any decision in that regard?

The Minister of Industrial Development (Shri M. M. Shah): (a) Presumably the question pertains to sale of steel. If so, the reply is in affirmative.

(b) No, Sir.

HANDLOOMS

***2301. Sardar Iqbal Singh:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether any report has been received from the State Governments regarding the number of active and idle handlooms in the year 1955-56; and

(b) whether it is a fact that the number of idle looms is on the increase?

The Minister of Industries (Shri Kanungo): (a) No, Sir.

(b) No such report has been received by the Government of India.

Sardar Iqbal Singh: May I know whether it is a fact that idle looms are now on the increase?

Shri Kanungo: It is difficult to give a reply. We have no reports as yet from any of the State Governments.

Sardar Iqbal Singh: May I know whether Government will enquire into the matter whether the handloom business is not flourishing with so much zeal as it ought to?

Shri Kanungo: Government does not agree with it, because on the whole production in the handloom section is showing increase.

SODA-ASH FACTORY

***2302. Shri Kamath:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether a licence has been granted for the erection of a Soda-ash factory at Mughalsarai, U.P.;

(b) if so, to whom; and

(c) on what terms and conditions?

The Minister of Industries (Shri Kanungo): (a) No, Sir.

(b) and (c). Do not arise.

Shri Kamath: Is it a fact that some party in U.P. or elsewhere did apply for a licence? Was it considered by the Government?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): So far as licence for starting a factory in Mughalsarai is concerned, an application has been received, but it has not been disposed of.

Shri Kamath: From whom?

Shri T. T. Krishnamachari: The party's name cannot be mentioned until the licence is granted or rejected.

Shri Kamath: Why not?

Mr. Speaker: It is for the Government to decide whether it is desirable to give the information or not.

Shri Kamath: Is it from Messrs. Dalmia Jain and Company?

Shri T. T. Krishnamachari: That is another way of asking the same question. The answer is the same.

Shri Kasliwal: In view of the fact that our country produces very little of soda ash as compared to our demand, may I know whether the Government is considering any proposal that licences for the manufacture of soda ash, both light and heavy, should be granted more liberally?

Shri T. T. Krishnamachari: A committee went into this matter and decided that three plants should be licensed. We have gone a step further, because we have re-assessed our demand for soda ash and decided to license four plants. If the people who have applied for the starting of these plants and have been granted licences do not take steps to implement the project licences, we may allow other people to come in. That is the position so far as the present policy of the Government is concerned.

Shri G. P. Sinha: May I know whether the soda ash factory is to be in the private sector or in the public sector?

Shri T. T. Krishnamachari: At present we are dealing with applications from the private sector.

DRINKING WATER AT ASANSOL

***2303. Shri N. B. Chowdhury:** Will the Minister of **Irrigation and Power** be pleased to state:

(a) whether Government are aware that the stoppage of water supply from Damodar has caused great difficulties to the people of Asansol due to lack of adequate alternate arrangement for the supply of drinking water in that town; and

(b) whether the Municipal authorities of Asansol have requested the Damodar Valley Corporation authorities to release water?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) The present shortage of water supply at Asansol is due to the scanty rainfall during the last year which was only 35 inches as against the normal rainfall of 55 inches. It cannot be said to be due to the stoppage of water by the Damodar Valley Corporation.

(b) A request from the Asansol Municipality was received by the DVC through the Govt. of West Bengal. The Corporation have accordingly agreed to release 150 cusecs of water daily from the Konar dam to enable the Asansol municipality and other consumers hereby to meet their requirements.

Shri N. B. Chowdhury: May I know when the request has been made to the Government and whether it has been acceded to and when?

Shri S. N. Mishra: Yes, Sir. The request has been acceded to and the release of 150 cusecs of water daily from the Konar dam has already been ordered.

Shri N. B. Chowdhury: At what time?

Shri S. N. Mishra: I cannot give the date.

Shri N. B. Chowdhury: May I know what is the charge for the supply of this water that Government intend to realise from the Asansol Municipality?

Shri S. N. Mishra: The rates have not yet been determined. All that would depend upon negotiations between the D.V.C. and the municipality.

Dr. Rama Rao: Are we to understand from the Minister's reply that Asansol is getting water today.

Shri S. N. Mishra: I think so.

ATOMIC REACTORS

***2304. Dr. J. N. Parekh:** Will the Prime Minister be pleased to state:

(a) whether Atomic Reactors have been offered to India by Foreign powers;

(b) when and how they are proposed to be used and utilised;

(c) what plans have been chalked out for the peaceful uses of Atomic Energy in the field of Industry, Power Generation, Agriculture and Medicine in India; and

(d) what steps are taken to train the technicians in foreign countries for implementing the above plans?

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): (a) and (b). Attention of the Honourable Member is invited to paragraph 2 of the Summary Report for 1955-56 of the Department of Atomic Energy. Canada's offer of an atomic reactor has been accepted and the necessary agreement was signed on the 28th of April, 1956.

(c) India's atomic energy programme is aimed at the peaceful uses of atomic energy. Radioactive isotopes which are being used increasingly in industry, medicine and agriculture in India are at present being imported from abroad but will be produced in India as soon as the Indian atomic reactors are ready. As regards power generation, the economic aspects of setting up atomic power stations in India are at present under study by this Department.

(d) India is in close collaboration with foreign countries in the field of atomic research and the necessary personnel required for its programme have been sent from time to time to foreign countries for training.

Dr. J. N. Parekh: May I know whether radioactive isotopes produced from the reactor in Trombay will be sufficient to meet India's requirements and may I also know in what priority these isotopes will be given from Trombay for the use of industry, agriculture and medicine?

Shri Jawaharlal Nehru: As soon as our new reactor is ready, it will make isotopes. The quantity will go on increasing. It is very difficult to say whether it will supply all our needs. Our needs will go on increasing too. Obviously, if we give all of them to our hospitals or agricultural operations, we want an enormous quantity, But, our supply will increase. The simple swimming pool reactor which we are making will probably be ready in about a month or six weeks or two months time. The other and much bigger one which is the Indo-Canadian reactor, a much more powerful one, that would take a year or two more. But, isotopes will be produced from the swimming pool reactor and much more so by the other.

Dr. Rama Rao: May I know whether we will be able to process uranium from Ilmenite and monazite with the help of these reactors?

Shri Jawaharlal Nehru: All these processes are going to be done here. Of course, they are going to be processed here in various ways: not so much the question of reactors, but other processes too.

Shri Kamath: Arising out of answers to parts (c) and (d) of the question, is the Prime Minister in a position to tell the House whether the nations or countries of the world with whom India has got close consultation and, perhaps, co-ordination in this matter, are very rapidly switching over to the development of atomic energy for peaceful uses rather than for destructive purposes?

Shri Jawaharlal Nehru: Does the hon. Member wish me to answer this question in regard to all the countries of the world?

Shri Kamath: Countries with whom we are in close consultation, and contact.

Shri Jawaharlal Nehru: We are in contact in regard to this matter to some extent with every country. That is, the scientists and not the Government of India as such, maintain contact. There was a conference in Geneva last year presided over by a distinguished Indian scientist where many of the countries of the world were represented except, unfortunately, much to our regret, some important countries like China. So that, in fact, our scientists maintain contact with almost every country. Naturally, the contacts are much more intimate with some countries where there is much work and less intimate with others. There is no country left out of the sphere of contact. Every country now talks about the use of atomic energy for peaceful purposes. But, if atomic energy is produced, it can be used for other purposes also with a little change or with a little preparation.

Dr. J. N. Parekh: When is India likely to get the other reactors and where are they likely to be installed?

Shri Jawaharlal Nehru: As a matter of fact, as I said, the swimming pool reactor will, I hope, begin functioning within two months. The other one, the big Canadian one is also under construction. It is proposed to have more reactors afterwards. This process will continue.

UNEMPLOYMENT IN TRAVANCORE-COCHIN

***2306. Shri V. P. Nayar:** Will the Minister of **Planning** be pleased to state:

(a) whether the Government of Travancore-Cochin had sent any proposal for the relief of the chronic and growing unemployment in the Ambalapuzha and Shertallai Taluks of the State; and

(b) if so, what are those proposals?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) and (b). Except for the schemes submitted to the Study Group on Educated Unemployed which relate to the State as a whole, no proposal for the relief of the general problem of unemployment in the Ambalapuzha and Shertallai Taluks has been received.

Shri V. P. Nayar: May I know what action the Government of India has taken on a memo submitted to the hon.

Minister signed by several thousands of people submitted by some Members of this House, a few months ago?

Mr. Speaker: Regarding these two, Ambalapuzha and Shertallai?

Shri V. P. Nayar: Yes.

Shri S. N. Mishra: Just now, I do not seem to possess any information on that point. I shall enquire and let the hon. Member know.

Shri V. P. Nayar: May I know whether there is any proposal for the construction of a railway line from Cochin to Kayamkulam which will cut across both these taluks in order to relieve the ever-growing unemployment of that place?

Shri S. N. Mishra: It should more properly be addressed to the Railway Minister. To my knowledge there is no such scheme.

Shri V. P. Nayar: May I know whether the Government of Travancore-Cochin has submitted plans which include the construction of this railway which I indicated before, and also a glass factory at Shertallai?

Shri S. N. Mishra: I have already submitted that no scheme for the alleviation of the general problem of unemployment has been submitted to the Planning Commission. Only some schemes in regard to the problem of the educated unemployed have been submitted to the study group.

Shri A. M. Thomas: May I know whether any specific proposal has been received from the Travancore-Cochin Government for exploiting the peculiar white sands which we find in plenty in Shertallai Taluk? My information is that the scheme is included.

Mr. Speaker: He said none other than this one.

Shri Achuthan: May I know whether the Planning Commission on its own initiative has taken up any scheme in regard to unemployment in West Bengal and Travancore-Cochin to be introduced in the first year of the Second Five Year Plan?

Shri S. N. Mishra: Particularly the problem amongst the educated persons is engaging the attention of the Planning Commission, so far as the States of Travancore-Cochin and West Bengal are concerned. We have received some schemes from the Government of Travancore-Cochin and we are considering them.

Shri Punnoose: Am I to understand that Government have not noticed the proposals made by the Travancore-Cochin State Government in the Second Five Year Plan for relief to unemployed in this area—proposals given to the Central Government and published regarding the construction of railway lines, starting of industries like the glass sheet factory, sand brick factory etc.,—and may I hope now when they look into that, consideration will be given in view of the acute unemployment there ?

Mr. Speaker: The hon. Member says these are things included in the schemes submitted by the Travancore-Cochin Governmnet. Has not the scheme yet come to the Planning Commission?

Shri S. N. Mishra: I can only submit that all schemes that have been included in the Plan of the Government of Travancore-Cochin are bound to produce employment and they might have been conceived from that point of view also. So far as the specific schemes, which the hon. Member has just now stated, are concerned. I can enquire and let him know.

Shri V. P. Nayar *rose*—

Mr. Speaker: I have given enough time to this question.

FILM MUSIC

***2307. Shri Ibrahim:** Will the Minister of **Information and Broadcasting** be pleased to state whether there is any proposal to change the policy of Government with regard to the broadcasting of film music?

The Minister in the Ministry of Communications (Shri Raj Bahadur): No, Sir. Our general policy regarding this matter has been stated here many times.

Sardar Iqbal Singh: May I know whether the Government of India is aware of the fact that Indian music that has been broadcast from foreign radio stations is very popular in India?

Shri Raj Bahadur: I understand that a study and survey have been made of that also and the results that have been achieved not only by our own bodies but by foreign bodies indicate that foreign programmes are popular with hardly eight to ten per cent. of our listeners.

प्रेस परिषद

*२३०८. **श्री भक्त दर्शन :** क्या **सूचना और प्रसारण** मंत्री यह बताने की कृपा करेंगे कि प्रेस आयोग की सिफारिशों के अनुसार प्रेस परिषद् स्थापित करने की दिशा में अब तक क्या प्रगति हुई है ?

संचार मंत्रालय में मंत्री (श्री राज बहादुर) : प्रेस कौंसिल की स्थापना के लिये आवश्यक कानून का मसविदा तैयार किया जा रहा है और जितनी जल्दी हो सकेगा उसे संसद में पेश किया जायेगा ।

श्री भक्त दर्शन : क्या मैं जान सकता हूं कि समाचार पत्र व्यवसाय में जितने भी हित और संस्थायें हैं— यानी एम्पलायर्ज और श्रमजीवी पत्रकार—उन से इस विषय में परामर्श किया जा रहा है या किया गया है और क्या इस सम्बन्ध में उन का सहयोग मिल रहा है ?

श्री राजबहादुर : जहां तक मेरी जानकारी है, इस मसविदे की तैयारी उन सिफारिशों के आधार पर हो रही है, जो कि प्रैस कमीशन की रिपोर्ट के सम्बन्धित पैराग्राफ में दिये हुए हैं ।

श्री भक्त दर्शन : क्या इस कौंसिल के निर्माण के समय इस बात का ध्यान रखा जायगा कि हिन्दी और दूसरी भारतीय भाषाओं का इस में पूरा प्रतिनिधित्व हो क्योंकि हाल ही में जिस वेज बोर्ड का निर्माण किया गया है, जहां तक मैं समझता हूं, उसमें हिन्दी या दूसरी भारतीय भाषाओं को उचित प्रतिनिधित्व नहीं दिया गया है ?

श्री राज बहादुर : समयस पहले इस मसविदे के बारे में ब्यौरे वार कुछ कहना उचित न होगा ।

राजस्थान का हाथकरघा उद्योग

*२३०९. **श्री पी० एल० बारूपाल :** क्या **वाणिज्य और उद्योग** मंत्री २८ जुलाई १९५५ के तारांकित प्रश्न संख्या १९८ के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) १९५५-५६ में क्या राजस्थान की जुलाहा सहकारी संस्थाओं को कोई वित्तीय सहायता दी गई है;

(ख) यदि हां, तो कुल कितनी राशि दी गई थी;

(ग) क्या यह सच है कि इन संस्थाओं द्वारा तैयार किये गये कपड़े की बाजार में खपत नहीं है और उन का काम रुका पड़ा है; और

(घ) यदि हां, तो इस मामले में क्या कार्यवाही की जा रही है ?

उद्योग मंत्री (श्री कानूनगो): (क) तथा (ख) राज्य सरकार को उसकी हथकरघा योजनाओं के लिये वित्तीय सहायता दी गयी । इनमें से अधिकांश योजनायें बुनकर सहकारी संस्थाओं के माध्यम से क्रियान्वित की जाती है । राजस्थान सरकार के लिये १९५५–५६ के वर्ष में कुल ६,९३,२७५ रु० के अनुदान और ऋणों के लिये स्वीकृति दी गई थी ।

(ग) सरकार के पास ऐसी कोई शिकायत नहीं आयी है ।

(घ) प्रश्न ही नहीं उठता ।

श्री पी० एल० बारूपाल : कई जगहों पर जो कपड़ा नहीं बिकता है, जो कि पड़ा हुआ है, क्या सरकार उसको बेचने का प्रबन्ध करेगी ?

श्री कानूनगो : वहां जो प्राडक्शन एंड सेल्ज सोसायटीज हैं, अपने मेम्बरों के कपड़े की बिक्री की जिम्मेदारी उन की है ।

PARTITION COUNCIL

***2310. Shri S. C. Samanta:** Will the **Prime Minister** be pleased to state:

(a) the number of times the Partition Council sat during 1954-55 and 1955-56;

(b) what were their decisions; and

(c) the steps taken to hasten the work of the Council?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) to (c). The Partition Council did not function after its meeting held on 1st December, 1947.

AFGHAN OFFICIALS' STUDY TOUR OF COMMUNITY PROJECTS

***2311. Shri B. S. Murthy:** Will the Minister of **Planning** be pleased to state:

(a) whether a team of officers from Afghanistan came to India to study work in Community Projects in India;

(b) the places visited by the team; and

(c) whether any expenditure has been incurred by Government in this regard?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) Yes, Sir.

(b) A statement indicating the places visited by the team is laid on the Table of the House. [*See* Appendix XIII, annexure No. 58].

(c) No expenditure in connection with the study tour of the team was incurred by the Government of India.

Shri B. S. Murthy: May I know why only one place in the South, namely Gandigram, has been shown to these people? Does it mean that there are no other places where successful work has been carried on?

Shri S. N. Mishra: That cannot be the legitimate inference from the itinerary drawn up for them. The programme might have depended upon their convenience also.

Shri B. S. Murthy: May I know whether any experts are being sent from here to Afghanistan to assist them in running their community projects?

Shri S. N. Mishra: At present there is no such proposal under contemplation.

HOUSING LOAN TO EMPLOYEES

***2312. Dr. Ram Subhag Singh:** Will the Minister of **Works, Housing and Supply** be pleased to refer to the reply given to Starred Question No. 1430 on the 14th April, 1956 and state:

(a) whether the scheme to provide loan to all Government employees, should they desire to build houses of their own has been finalised;

(b) if so, the nature thereof; and

(c) when it will come into operation?

The Parliamentary Secretary to the Minister of Works, Housing and Supply (Shri P. S. Naskar): (a) and (b). Rules regulating grant of house building advances to such Central Government employees as are either permanent or have put in at least 10 years of continuous service have been finalised and copies thereof placed in the Library of the Lok Sabha.

(c) The Scheme has been in operation since 12-4-1956.

LIFE OF BHAKRA RESERVOIR

***2284. Shri Krishnacharya Joshi:** Will the Minister of **Irrigation and Power** be pleased to state·

(a) whether any special study and research have been undertaken to find out the life of Bhakra Reservoir;

(b) if so, its estimated life?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) Yes, Sir.

(b) About 600 years.

WRITTEN ANSWERS TO QUESTIONS

EXCHANGE OF PROPERTIES

***2283. Shri Biren Dutt:** Will the Minister of **Rehabilitation** be pleased to state:

(a) whether any representation has been received to promulgate an ordinance validating exchange of properties between displaced persons and evacuees in Tripura; and

(b) if so, the steps that have been taken in that direction?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) Yes.

(b) The matter is under consideration.

POWER FROM UPPER BARI DOAB CANAL

*2285. { **Shri Gadilingana Gowd:**
Shri Ram Krishan:

Will the Minister of **Irrigation and Power** be pleased to state:

(a) whether it is a fact that the Punjab Government has substituted a scheme for generating power from the waters of Upper Bari Doab Canal, to the Union Government for inclusion in the Second Five Year Plan;

(b) if so, whether the scheme has been approved; and

(c) the estimated cost of the scheme?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) The reply is in the negative.

(b) and (c): Do not arise.

HIDES AND SKINS

***2286. Shri Kajrolkar:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether it is a fact that no representative is allowed to watch the auction proceedings for hides and skins in the U.K.; and

(b) if so, the reasons therefor?

The Minister of Commerce (Shri Karmarkar): (a) No, Sir.

(b) Does not arise.

TEA PLANTATIONS LABOURERS

***2294. Shri Ibrahim:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether Government are aware that the prices of tea have risen since 1953; and

(b) if so, the extent of increase in the net income of the labourers in tea plantations on account of rise in tea prices?

The Minister of Commerce (Shri Karmarkar): (a) Tea prices have fluctuated considerably in the last 3 years. The average wholesale price of tea realised in the Calcutta auctions in 1954-55 recorded a striking increase over the 1953-54 price level. In 1955-56 the prices dropped considerably. So far as the internal sales are concerned, the average price in 1955-56 remained at about the 1953-54 level.

(b) Minimum wages for workers in tea plantations are fixed under the Minimum Wages Act in various States. The wage level varies from State to State. On the whole, the wage level in 1955 has been higher than that, in 1953.

FOOTWEAR INDUSTRY

***2298. Shri H. G. Vaishnav:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether it is a fact that the production of western type of leather footwear has registered a decline in production in the past two years; and

(b) if so, whether the fall is due to the levy of Central Excise Duty or some other reasons as well?

The Minister of Industries (Shri Kanungo): (a) Yes, Sir. There has been a slight fall in production in the organised sector of the industry from 3·27 million pairs to 3·24 million pairs.

(b) The fall in production is in the organised sector and is due primarily to the levy of the excise duty on production by this sector.

रोडेशिया में भारतीय

*२२९९. **श्री रघुनाथ सिंह :** क्या **प्रधान मंत्री** यह बताने की कृपा करेंगे कि क्या सरकार का ध्यान रोडेशिया तथा न्यासालैण्ड के प्रधान मंत्री लार्ड मालवर्न के ३० अप्रैल को ब्रिटिश इडियन एसोसियेशन तथा भारतीय वाणिज्य मंडल के समक्ष दिये गये वक्तव्य की ओर गया है, जिसमें उन्होंने कहा है कि रोडेशिया में भारतीयों को प्रवेश पर लगाये गये प्रतिबन्ध को नहीं उठाया जायेगा ?

वैदेशिक कार्य उपमंत्री (श्री अनिल के चन्दा) : अखबारों में छपी ख़बरों के अनुसार लार्ड मालबर्न ने २९ अप्रैल, १९५६ को लिविंग्स्टन में यह वक्तव्य दिया है ।

PASSPORT BOOKS

***2305. Shri Biren Dutt:** Will the **Prime Minister** be pleased to state:

(a) whether it is a fact that the pages of Passport Books issued from Tripura State for Pakistan are much less in number in relation to duration of time;

(b) whether for a renewal of a passport considerable cost and delay is involved; and

(c) if so, the steps Government propose to take to minimise the inconvenience to get a new passport book before the expiry of date of the passport?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) No. The India-Pakistan Passport contains 32 pages of which 25 pages can be used for the grant of visas and endorsements. If all the pages of a passport are used up during its period of validity an additional booklet of 32 pages can be attached to it for a fee of Re. 1.

(b) No.

(c) Does not arise.

VISIT OF EMPEROR OF ETHIOPIA

***2313. Shri V. P. Nayar:** Will the **Prime Minister** be pleased to state:

(a) whether the Emperor of Ethiopia has been invited to visit India;

(b) if so, whether his programme in India has been finalised; and

(c) whether he will visit Travancore-Cochin also ?

The Parliamentary Secretary to the Minister of External Affairs (Shri Sadath Ali Khan): (a) Yes.

(b) Not yet. A tentative programme has, however, been prepared.

(c) A visit to Travancore-Cochin has been included in the tentative programme. It is however too early to tell whether it will be retained when the programme is finalised.

ELECTRIC GENERATORS

2149. Shri Kamath: Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether it is a fact that Government have ordered electric generators from West Germany;

(b) if so, of what capacity, from whom and for what purpose; and

(c) the terms and conditions of the purchase?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): (a) It is understood that Government have not placed any such orders directly.

(b) and (c). Do not arise.

INDIAN EMIGRANTS TO BURMA

2150. Shri Krishnacharya Joshi: Will the **Prime Minister** be pleased to state :

(a) the number of Indians who emigrated to Burma for skilled work during 1955; and

(b) whether all of them got employment there?

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru) : (a) and (b). 210 persons from Madras and 87 persons, including 6 dependents, from Calcutta emigrated to Burma for skilled work on contractual basis during 1955 and it is presumed that all of them got employment on their arrival in Burma.

PREMATURE RETIREMENT OF OFFICERS OF THE EXTERNAL AFFAIRS MINISTRY

2151. Chaudhuri Muhammed Shaffee: Will the **Prime Minister** be pleased to state:

(a) the number of persons, officers and others of the External Affairs Ministry who have been prematurely retired from the service in India and abroad from the 1st April, 1955 to the 31st March, 1956, if any; and

(b) the causes therefor?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) None.

(b) Does not arise.

PASSPORTS

2152. { **Chaudhuri Muhammed Shaffee:**
Shri K. K. Das:

Will the **Prime Minister** be pleased to state:

(a) the number of persons who have applied for passports in India, Region-wise, from the 1st April, 1955 to the 31st March, 1956;

(b) the number of persons, who have been granted passports; and

(c) the cases, still pending decisions?

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): (a) The information is not available as statistics have not been maintained region-wise by the Passport Issuing Authorities hitherto.

(b) and (c): The information is not readily available with the Government of India. It is now being collected and will be placed on the Table of the House.

EXPORT OF MONKEYS

2153. { **Shri D. C. Sharma:**
Sardar Iqbal Singh:
Sardar Akarpuri:

Will the Minister of **Commerce and Industry** be pleased to state:

(a) the total number of monkeys exported to U.S.A. exclusively during the period from the 1st November, 1955 to the end of March, 1956; and

(b) the total price (country-wise) obtained on the export of monkeys to foreign countries during the above period?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): (a) 41,600.

(b) A statement is laid on the Table of the House. [*See* Appendix XIII, annexure No. 59].

RESIDENTIAL ACCOMMODATION

2154. Shri D. C. Sharma: Will the Minister of **Works, Housing and Supply** be pleased to state:

(a) whether water supply has been arranged in all the quarters of Class IV employees in Delhi;

(b) if not, the names of colonies where water supply has not been arranged so far; and

(c) the date by which the work is expected to be completed?

The Parliamentary Secretary to the Minister of Works, Housing and Supply (Shri P. S. Naskar): (a) Yes; water supply arrangement has been made in all Class IV employees quarters in Delhi. These quarters are provided with common bath rooms and water closets which are already provided with water taps. The work is also in progress for providing independent taps in various colonies except in D.I.Z. area. where such quarters are proposed to be demolished.

(b) Does not arise.

(c) By the end of June, 1956.

SPICES AND OILSEEDS EXCHANGE LTD., SANGLI

2155. Shri S. C. Samanta: Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether the Spices and Oilseeds Exchange Ltd., Sangli, have modified their Articles of Association to get permission for forward trading in turmeric;

(b) if so, when;

(c) whether any other Association is going to be given the same privilege;

(d) the names of the main places in India where turmeric trade is run; and

(e) the quantity of indigenous consumption of turmeric?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): (a) Yes, Sir.

(b) 18th March, 1956.

(c) Not for the present.

(d) Berhampur, Parlakimedi, Jeypore, and Nawrangpur in Orissa, Duggirala, Tenali, Vijayawada, Kakinda and Cuddappah in Andhra, Erode, Salem and Madras in Madras State; Sangli, Karad, Tasgaon, Kolhapur, Takani and Bombay in Bombay State; Cochin and Alleppey in Travancore-Cochin; Shalimar in Jammu and Kashmir; Nagpur, Amritsar, Calcutta, Kanpur and Delhi.

(e) About 1 lakh tons a year.

REFRACTORY MATERIALS

2156. Shrimati Ila Palchoudhury: Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether the production of perfect single crystals of refractory materials such as Aluminia, Calcium, Cadmium, Tungesten and Titanium Dioxide has begun in India; and

(b) if so, the quantity in value produced during 1955?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): (a) Not yet on a commercial scale so far as the Government are aware.

(b) Government have no information.

HINDUSTAN STEEL LIMITED

2157. Shri Velayudhan: Will the Minister of **Iron and Steel** be pleased to state:

(a) the number of Class I and Class II Officers holding administrative and technical posts in the Hindustan Steel Limited at present;

(b) the number of various Class III and Class IV Officials; and

(c) the number of persons from Scheduled Castes and Scheduled Tribes in each of the categories mentioned?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): (a) to (c). A statement is laid on the Table of the House. [*See* Appendix XIII, annexure No. 60].

COFFEE BOARD

2158. Shri Velayudhan: Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether the Coffee Board has revised the pay-scale of its staff; and

(b) the features of the new pay-scale?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): (a) The scales of pay of Class III and Class IV staff have been revised.

(b) By and large, the scales of pay and allowances applicable to Central Government servants in the Subordinate Offices have been sanctioned for Class III and Class IV staff of the Coffee Board. A statement showing the original scales of pay and the revised scales is laid on the Table of the House. [*See* Appendix XIII, annexure No. 61].

STEEL WORKS

2159. Shri Wodeyar: Will the Minister of **Iron and Steel** be pleased to state:

(a) whether it is a fact that Government have placed order for metal structural parts for iron and steel works under construction in India with Molotov Works in Russia; and

(b) if so, the tonnage of parts ordered and when the finished parts will be arriving in the country?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari) : (a) and (b). No, Sir. No order has been placed for metal structural parts with Molotov Works in Russia. A contract has, however, been concluded between the Government of India on the one part and the Ministry of Iron and Steel U.S.S.R. and "Technoexport" on the other for the supply of 60,000 metric tons of structural steelwork for the Bhilai Iron and Steel Works. The first consignment is expected to arrive in India this year and the entire supply completed by the middle of June, 1959.

PRAYER MEETINGS OF MAHATMA GANDHI

2160. Shri Nageshwar Prasad Sinha: Will the Minister of **Information and Broadcasting** be pleased to state:

(a) how many recordings of the prayer meetings of the Father of the Nation have been collected and maintained by the A.I.R.;

(b) to which periods they relate; and

(c) what steps have been taken to keep them free from corrosion and deterioration due to atmospheric conditions?

The Minister in the Ministry of Communications (Shri Raj Bahadur): (a) 237.

(b) May, 1947 to 29th January, 1948.

(c) The original records which are made on aluminium based cellulose-acetate coated discs have been carefully wrapped in dust-proof paper and are stored in steel almirahs in an air-conditioned room. These records were also transferred to tape and processed and steps have been taken to acquire and preserve the matrices of the records so processed—the matrices being of metal and of a permanent character.

BOKARO COLLIERY

2161. Shri Nageshwar Prasad Sinha: Will the Minister of **Production** be pleased to state:

(a) whether it is a fact that there has been a fall in profits of the Bokaro Colliery recently; and

(b) if so, what were the incomes in 1950-51, 1951-52, 1952-53, 1953-54 and 1954-55?

The Deputy Minister of Production (Shri Satish Chandra): (a) Yes.

(b) The profit during these years was as under:

1950-51.	Rs. 65,35,969/-
1951-52.	Rs. 99,15,726/-
1952-53.	Rs. 1,09,64,737/-
1953-54.	Rs. 1,07,57,058/-
1954-55.	Rs. 81,83,182/-

MICA EXPORTS

2162. Shri Nageshwar Prasad Sinha: Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether complaints from foreign concerns against Indian Shippers of Mica have been received during 1954 and 1955; and

(b) if so, what is the nature of the complaints?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): (a) Yes, Sir.

(b) Broadly speaking the grounds for complaints have been:—

(1) that the supply of mica made was not according to the samples furnished;

(2) that the supply of mica made was not according to the specifications given;

(3) that the supply of mica made was short of the quantity stated to have been supplied; and

(4) non-fulfilment of the contract to supply the agreed quantity of mica.

RURAL BROADCASTING

2163. Shri Balakrishnan: Will the Minister of **Information and Broadcasting** be pleased to state:

(a) whether the duration of rural broadcasting programme has been extended in Trichy A. I. R. Station; and

(b) if so, the time extended?

The Minister in the Ministry of Communications (Shri Raj Bahadur): (a) Yes, Sir.

(b) It has been extended from forty-five minutes to one hour.

TUNGABHADRA DAM

2164. Shri Shivananjappa: Will the Minister of **Irrigation and Power** be pleased to state:

(a) the progress achieved so far on the generation of power at the Tungabhadra Dam;

(b) the total estimated power capacity of this dam; and

(c) the share of the Mysore State in this Power generation?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) The progress achieved on the generation of power at the Tungabhadra Dam is as follows:—

Andhra-Mysore Side

Power House at the Dam: The masonry portion of the Power House at the Dam has been completed and the generator units are being erected.

Humpi Power House: 80% of the substructure and 30% of the superstructure has been completed.

Hyderabad Side

The construction of the penstocks in the Dam portion has been completed. The intake gates have been installed. Excavation for the power house pit, draft tubes and downstream bellmouth portion has also been completed.

(b) The Tungabhadra Hydro-Electric Scheme as now envisaged comprises:—

(*1*) *Andhra-Mysore side*

(i) A power station at the foot of the Tungabhadra Dam called the Dam Power House, with two 9000 K.W. units and provision for two more similar units in the future.

(ii) A second power station called the Humpi Power House at about 14th mile of the irrigation canal, with two 9000 K.W. units initially, with provision for one more in the 6th year of operation and a further unit later on, depending upon load development and availability of additional water from the reservoir.

(*2*) *Hyderabad Side*

The ultimate capacity of the Power House at the Dam Site is 36,000 K.W. but it is proposed to develop it in two stages. In the first stage two generating sets of 9000 K.W. each are being installed.

(c) The share of Mysore has been tentatively fixed at 20 per cent. of the power developed under this scheme on the Andhra Mysore side.

HUMPI POWER HOUSE

2165. Shri Shivananjappa: Will the Minister of **Irrigation and Power** be pleased to state:

(a) the progress of the Humpi Power House near Hospet in Mysore State;

(b) the total expenditure incurred so far on the plant; and

(c) the estimated power capacity of the House?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) 80% of the substructure and 30% of the superstructure have been completed.

(b) Rs. 24,49,070.

(c) The capacity of the Power House according to the present Scheme is four units of 9000 K.W. each (*i.e.* 36,000 K.W.). For the present, only two units of 9000 K.W. will be installed and the third unit will be installed approximately in the sixth year of operation. The installation of the fourth unit will be considered later.

COAL

2166. Shri K. P. Tripathi: Will the Minister of **Production** be pleased to state:

(a) whether a decision has finally been taken about the balance of the proposed increased production of 7 or 8 million tons of coal which remained unallocated during the Second Five Year Plan; and

(b) if so, the details thereof?

The Deputy Minister of Production (Shri Satish Chandra): (a) and (b). It has been decided that out of the additional production of 22 million tons of coal per annum to be achieved by 1960-61, the public sector will raise 12 million tons and the private sector 10 million tons.

Of the additional production in the public sector, 2 million tons will come from existing workings—·5 million tons from existing Central Government collieries and 1·5 millions tons from Singareni Collieries in Hyderabad State. 4 million tons are to be obtained by the development of Korba coalfields. The areas (Bihar and Central India coalfields) from which the remaining 6 million tons will be obtained have been decided only broadly and particulars, including specific allocations for each area, are being determined.

MAJOR IRRIGATION SCHEMES

2167. Shri Nambiar: Will the Minister of **Irrigation and Power** be pleased to state:

(a) the State-wise figures of additional contemplated and actual contents (in million cubic feet or in acre feet) of Reservoirs of major irrigation schemes included in the First Five Year Plan; and

(b) the contemplated and actual Statewise figures of discharge let down the Canals taking off from the major irrigation Schemes mentioned above?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) and (b). Necessary information is being collected and will be laid on the Table of the House as soon as possible.

भारत में पाकिस्तानी राष्ट्रजन

२१६८ **श्री. रघुनाथ सिंह :** क्या **प्रधान मंत्री** यह बताने की कृपा करेंगे कि इस समय भारत में कितने ऐसे पाकिस्तानी राष्ट्रजन हैं, जो भारत में पारपत्रों, दृष्टांकों (वीसाज़) अथवा अस्थायी परमिटों के साथ आये थे ?

प्रधान मंत्री तथा वैदेशिक कार्य मंत्री (श्री जवाहरलाल नेहरु): इस संबंध में सूचना इकट्ठी की जा रही है और पूरी सूचना मिल जाने पर सदन की मेज़ पर रख दी जायेगी।

BORDER CRIMES

2169. { Sardar Iqbal Singh:
Sardar Akarpuri:

Will the **Prime Minister** be pleased to state:

(a) the number of persons who had committed crimes in India and crossed to Pakistan after committing the crimes, during 1955;

(b) the number of those for whose return the Government of India have approached the Pakistan Government; and

(c) the number of those persons who have been handed over to the Government of India by the Pakistan Government?

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): (a) Government have no information.

(b) and (c). There is at present no Treaty between India and Pakistan under which extradition of fugitive offenders can take place. There were one or two occasions in the past when the Government of Pakistan were asked to assist in the return of certain criminals such as Bhupat but nothing came out of those requests.

Khadi

2170. Shri Ibrahim: Will the Minister of **Works, Housing and Supply** be pleased to state:

(a) the quantity and value of *Khadi* purchased for Government requirements during 1955-56; and

(b) the annual Government requirements of cloth?

The Parliamentary Secretary to the Minister of Works, Housing and Supply (Shri P. S. Naskar): (a)

Nomenclature of stores	Quantity	Value
	(in lakhs)	(in lakhs)
1. Cotton cloth items.	55·23 ds.	Rs. 114·99
2. Other items such as cloth Sponge, Dusters, Towels, Table Cloth, Sheets, Draw, Flags, Signal, etc.	2·15 Nos.	Rs. 1·72

(b) 306·97 lakhs yds. of cloth items were purchased during the year 1955-56 on behalf of Central Government indentors including the Defence Services.

LITERACY COMMUNITY PROJECTS

2171. Shri Madiah Gowda: Will the Minister of **Planning** be pleased to state the percentage of illiterate men and women made literate in the Community Project areas during the last three years?

The Deputy Minister of Planning (Shri S. N. Mishra): Government has no precise information. According to an estimate about 772,000 adult males and females were made literate in the Community Development and National Extension Service areas upto the period ending December 31, 1955. Roughly, this works out to an increase of 2 to 3 per cent. in literacy.

ROCK SALT

2172. { **Thakur Jugal Kishore Sinha:**
Shri Asthana:

Will the Minister of **Production** be pleased to state:

(a) whether it is a fact that the States have been advised to utilise Co-operative Organisations for the distribution of Rock Salt;

(b) the names of the States which have accepted this advice;

(c) the names of the States which propose to utilise Private Agencies for the distribution of Rock Salt; and

(d) the steps that have been taken to persuade the States to accept the advice of Government for utilising the Co-operative Organisations?

The Deputy Minister of Production (Shri Satish Chandra): (a) Yes. The State Governments were requested to arrange distribution through Co-operative Societies as far as possible.

(b) Punjab, Uttar Pradesh, Assam and Bihar have so far agreed to arrange partial or full distribution of the quotas allocated to them through Co-operative Societies.

(c) Delhi, P.E.P.S.U., Madhya Pradesh and Ajmer.

(d) As this is a matter entirely within the discretion of the State Governments, the Government of India have been content to make the suggestion that the allocation of rock salt quotas should be made to Co-operatives to the extent possible.

LOCAL WORKS PROGRAMME

2173. { **Thakur Jugal Kishore Sinha:**
Shri Asthana:

Will the Minister of **Planning** be pleased to state whether any allotment has been made for the purpose of repair and rejuvenation of old wells in villages under the Local Works Programme?

The Deputy Minister of Planning (Shri S. N. Mishra): No, Sir.

EVACUEE BUILDINGS IN BOMBAY

2174. Shri Gidwani: Will the Minister of **Rehabilitation** be pleased to state:

(a) the number of evacuee buildings that have been auctioned in the city of Bombay upto the 31st March, 1956; and

(b) the number of such evacuee buildings the possession of which has been given to the purchasers?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) 225.

(b) 58.

TRADE WITH AFGHANISTAN

2175. { **Sardar Iqbal Singh:**
Sardar Akarpuri:

Will the Minister of **Commerce and Industry** be pleased to state:

(a) the value and tonnage of commercial goods exported to Afghanistan and of those imported from Afghanistan by air during the year 1955-56; and

(b) the steps taken to increase it?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): (a) The values of

India's exports to and imports from Afghanistan by air during the year 1955-56 were Rs. 33·12 lakhs and Rs. 29·61 lakhs respectively.

(b) With effect from 12th May, 1956, the Indian Airlines Corporation have increased the number of scheduled passenger *cum* cargo services to Kabul from Delhi to twice a week in each direction.

SMALL-SCALE INDUSTRIES IN PUNJAB AND PEPSU

2176. **Sardar Iqbal Singh:**
Sardar Akarpuri:

Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether any data regarding the possibility of starting Small-Scale Industries at various places in Punjab and PEPSU have been collected by Government; and

(b) if so, the nature of the proposals finalised so far?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): (a) and (b). The Government of India have not yet collected any data.

A.I.R. STATION, JULLUNDUR

2177. **Sardar Iqbal Singh:**
Sardar Akarpuri:

Will the Minister of **Information and Broadcasting** be pleased to state:

(a) the number of artistes who were invited to participate in the programmes of the Jullundur Station of A. I. R. during the last year; and

(b) the number of artistes from other States?

The Minister in the Ministry of Communications (Shri Raj Bahadur): The information is being collected and will be placed on the Table of the Lok Sabha in due course.

जूते

२१७८. **श्री जांगड़े :** क्या वाणिज्य और उद्योग मंत्री यह बताने की कृपा करेंगे कि :

(क) १९५५ में देश के कुटीर उद्योगों तथा बड़े कारखानों में पृथक् पृथक कितने जूते तैयार किये गये और उनकी कीमत क्या है ;

(ख) चमड़ा सम्बन्धी कुटीर उद्योगों तथा बड़े कारखानों में अलग-अलग कितने-कितने व्यक्ति कार्य करते हैं ;

(ग) कितने कारखाने सहकारी आधार पर चल रहे हैं ; और

(घ) कुटीर उद्योगों में लगे हुए व्यक्तियों को रंगा हुआ चमड़ा कम मुल्य पर उपलब्ध कराने के लिये अथवा उन्हें कुटीर-उद्योग आधार पर चमड़ा रंगने का प्रशिक्षण देने के लिये सरकार ने क्या कार्यवाही की है ?

वाणिज्य और उद्योग तथा लोहा और इस्पात मंत्री (श्री टी० टी० कृष्णामाचारी): (क) अनुमान है कि १९५५ में देश में ९०० से ९५० लाख जोड़े जूते तैयार किये गये। बड़े कारखानों में ५५ लाख जोड़ तैयार हुए। शेष छोटे कारखानों अथवा कूटीर उद्योगों द्वारा तैयार किये गये। उत्पादन के मूल्य सम्बन्धी जानकारी उपलब्ध नहीं है।

(ख) लगभग ९४०० व्यक्ति चमड़े का सामान, जिसमें जूते भी शामिल हैं, बनाने वाले बड़े कारखानों में काम करते हैं। छोटे कारखानों और कुटीर उद्योग में काम करने वाले व्यक्तियों की कुल संख्या उपलब्ध नहीं है।

(ग) तथा (घ). यह जानकारी इकट्ठी की जा रही है और सदन की मेज पर उपस्थित कर दी जायेगी।

REBATES ON HANDLOOM PRODUCTS

2179. **Thakur Jugal Kishore Sinha:**
Shri Asthana:

Will the Minister of **Commerce and Industry** be pleased to state:

(a) the agencies that are being utilised for the distribution of rebates on handloom products in each State;

(b) the names of the States in which the Central Co-operative Banks have been utilised so far for the purpose of such payments to the Weavers Co-operative Societies; and

(c) if so, the reasons therefor?

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): (a) The appropriate Department of the State Government dealing with the handloom industry.

(b) None, so far as the Government is aware.

(c) Does not arise.

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LOK SABHA DEBATES

Acc. No.......... Dated 11.3.2015

(Part II—Proceedings other than Questions and Answers)

LOK SABHA

Thursday, 17th May, 1956

The Lok Sabha met at Half Past Ten of the Clock.

[Mr. Speaker *in the Chair*]

QUESTIONS AND ANSWERS

(*See* Part I)

11.30 A.M.

CONSTITUTION (TENTH AMENDMENT) BILL

Extension of Time for Presentation of Report of Joint Committee

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): I beg to move :

> "That this House concurs in the recommendation of Rajya Sabha that the Joint Committee of the Houses on the Bill further to amend the Constitution of India be instructed to report by the 23rd May, 1956".

Mr. Speaker: What is the present date ?

Shri M. C. Shah: Here in the Lok Sabha, the date was 18th.

Mr. Speaker: Whenever any such motion is moved, hon. Members may say a few words as to why they want this kind of extension.

Shri M. C. Shah: I am sorry. When the Bill was taken up here the date mentioned was the 18th inst., and the Joint Committee had to report by the 18th. The Rajya Sabha took up the motion for reference only yesterday, and they passed the motion for concurrence for reference of the Bill to the Joint Committee only yesterday evening, and the message has been sent here. Tomorrow is the 18th, and therefore it will not be possible for the Joint Committee to meet and report before tomorrow. You have yet to nominate a Chairman for the Joint Committee, and that Chairman has to call the meeting. And 18th being tomorrow, the Rajya Sabha, as usual, and as has always been done here as well as in the Rajya Sabha, have recommended that the date should be extended to the 23rd.

Mr. Speaker: The question is :

> "That this House concurs in the recommendation of Rajya Sabha that the Joint Committee of the Houses on the Bill further to amend the Constitution of India be instructed to report by the 23rd May, 1956."

The motion was adopted.

REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL—*contd.*

Clauses 41, 42 and 47

Mr. Speaker: The House will now proceed with the further clause by clause consideration of the Bill further to amend the Representation of the People Act, 1951 and to make certain consequential amendments in the Government of Part C States Act, 1951.

Shri Kamath (Hoshangabad): May I make an earnest request to you? As you are well aware, and as the House is well aware, particularly this provision, namely clause 41, and clause 65 are the cardinal, and perhaps the most controversial also, provisions in this Bill. And I am voicing the feelings of the Opposition and of the Members on this side of the House, and, I have no doubt, of those on the other side also, when I make a request to you that the time for consideration of these very important clauses may be extended. May I also request that you in your discretion and goodness may give us a little more time for this Bill? If possible, we can sit for the whole of today to consider this Bill, and I am sure, the House will approve of this suggestion.

Mr. Speaker: That will give another two hours. Yes, I agree.

Shri A. K. Gopalan (Cannanore): These are very important clauses.

Mr. Speaker: We shall sit as long as is possible.

Shri Kamath: Let us have a full-dress discussion on these two clauses.

Shri A. K. Gopalan: We can take the whole clause by clause consideration today, and tomorrow, only some time may be given for the third reading.

Mr. Speaker: We have got the Life Insurance Corporation Bill, for which we have allotted fifteen hours. If we have some more time for this Bill, then this may get into the time allotted for the other Bill. and there may not be enough time for the discussion of the other Bill. I accept this suggestion that we shall sit for the whole of this day and dispose of this Bill.

Shri Kamath: Further, since most of the discussion on the Second Five Year Plan has been postponed to the next session, we shall have plenty of time.

Shri Dabhi (Kaira North): I have sent notice of an amendment to amendment No. 229 today.

Mr. Speaker: The hon. Member must have sent it earlier.

Shri Dabhi: I received amendment No. 229. only this morning. So, how could I have sent it earlier?

Mr. Speaker: Very well. Let me see.

Pandit Thakur Das Bhargava (Gurgaon): Yesterday, I was speaking on clause 41. If you will kindly look at clause 41, you will find that the proposed section 77 reads as follows:

> "(1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive . ."

There is an exception to this, which reads as follows:

> "(4) The said expenditure shall not be deemed to include any expenditure incurred by a recognised party organisation for furthering the prospects of the election of candidates supported by it.".

The Explanation to this provision reads thus:

> "The expression 'recognised party organisation' means a party organisation which has been recognised by the Election Commission in this behalf.".

Yesterday, I submitted that so far as the question of recognition of parties was concerned, this was almost a new provision which gave powers to the Election Commission to recognise particular parties. Exception was taken on the ground that no rules had been prescribed on this new subject. I admit that that is quite true. The subject is quite a new one. But as I submitted yesterday, we could not authorise any other body to recognise the parties for election purposes, except the Election Commission. We have done the right thing here by authorising the Election Commission to recognise the parties.

During the last general elections, no such parties were recognised, because this provision was not there.

Shri S. S. More (Sholapur): The parties were recognised.

Pandit Thakur Das Bhargava: But that was done only for the purpose of allotting symbols.

Shri S. S. More: That was recognition of parties.

Pandit Thakur Das Bhargava: The parties were recognised only for that purpose, and for no other purpose.

Now, we have a new provision, and the question arises whether for this purpose also, parties should be recognised or not. My submission is that parties must be recognised for this purpose also. It is a democracy in our country and it is a party system of government that we have. In this democracy, we must have parties, and I do not think any hon. Member holds a different opinion so far as this matter is concerned. From these two things, it is quite clear that parties must be recognised. The only authority whom we can authorise is the Election Commission.

The only difficulty that remains now is that today there are no certain and fixed rules by virtue of which the parties would be recognised. These things grow with time and with necessity. Previously, such a necessity was not felt. So far as the question of granting of symbols was concerned, it was not a very difficult matter, and nobody has so far objected to recognition of parties, so far as that matter was concerned.

But now for the first time, this provision has come. I think the Election Commission will make rules, and very rigid rules, I should say, by virtue of which the parties will be recognised. On the basis of those rules alone will the parties be entitled to recognition, and therefore there cannot be any heart-burning on that account. So far as the complaint is concerned that the Congress Party is a well-organised party and so on, I would say that in any category of parties, the Congress must be one of the recognised parties: there is no doubt about it. So far as the others are concerned, I think they will have no right to complain, because when the rules are there, the rules will be specific, and based on certain principles and certain qualifications.

Shri S. S. More: But who is to frame the rules?

Pandit Thakur Das Bhargava: I submit that the Election Commission will make the rules.

Shri S. S. More: There is no authority.

Pandit Thakur Das Bhargava: For, according to article 324 of the Constitution, the entire authority and the rights in regard to elections, their superintendence, conduct and control and so on, lie with the Election Commission. Or, if the House wants, the House may itself frame those rules. But no one has given any amendment to this effect. If there were amendments we would have considered them. But I have no objection if such a procedure is adopted, because after all, the rules will apply to all parties equally, and there will be nothing in the rules to say that different and discriminatory rules will apply to different parties. If the rules are such as will apply equally to all parties then where is the point in objecting to them? I therefore submit that any criticism on that score is not just.

Another objection that was taken was in regard to the provision which I have just read out, wherein we have laid down a certain period for which the accounts are to be kept, and that period is that between the date of publication of the notification calling the election, and the date of declaration of the result thereof. Previously, the rule was different. From the time that a candidate held himself out as an agent, the election expenses had to be accounted for. It is quite true that the point of time from which the accounts are to be kept can vary according to the opinions of different people. Some might think that perhaps the proper time is when a person holds himself out as a candidate. This is one view.

Shri S. S. More: That is the Supreme Court view.

Pandit Thakur Das Bhargava: This is also not the only view which can be held on a point like this. Ordinarily, when parties appoint their candidates, a person does not really know at what time he becomes a candidate. A person may hold himself out, but the party may not choose him. His holding himself out will be no consequence whatsoever in that case.

Then again, holding himself out becomes, so far as the ascertainment of the time is concerned, a question of great difficulty. A candidate may say that at a particular time, he did hold himself out. Then it becomes a matter of evidence. It is very difficult to decide. Therefore, when we make this provision, we must make it absolutely certain that between these two dates, the accounts will be kept, and this will equally apply to all. It is not that for a Congress candidate there will be done date and for a Socialist party candidate there will be another. If the time is certain and applies to all equally, there can be no complaint whatsoever. The Select Committee thought that this was the proper thing to do so that there might be no uncertainty about it.

Then again, exception is taken to the provision that the expenses incurred by parties will not be regarded as expenses which may be shown in the accounts by the candidate. I submit that there are recognised parties and there can be no heart-burning as it will equally apply to all parties. Any expenses incurred by the candidate himself will be shown in the accounts and any expenses incurred by the party will not be shown. As I submitted, ordinarily these expenses will generally relate to propaganda and publicity

[Pandit Thakur Das Bhargava]

so far as the general interests of the candidates are concerned. If any specific amount is advanced by the party to a particular candidate for the purpose of furthering the interests of his own election, that amount will be shown. I have no doubt about it. Even today, under the rules, if a person borrows money from his party or receives advance, it is being shown. The rule is there and I do not think that sub-section (4) really saves a man who does not show that amount under his election expenses.

What else remains? The only thing that remains is expenses in connection with propaganda and publicity of a general nature when leaders of those parties go about in the country. Therein expenses are incurred. There is no doubt that the party benefits. But that cannot be shown under election expenses of the candidate. No party has a right to complain on that score. This rule will equally apply to all. Therefore, I do not think there is any force in the contention of my hon. friends who have taken a different view that this way in any way favours the Congress or any other party. It is entirely wrong to make that suggestion. On the contrary in the Select Committee, we were out to make a rule which would equally apply to all, and would not be utilised, in any manner for the purpose of making discrimination as between one party and another.

Shri Raghavachari (Penukonda): What is the position as between one candidate and another, where no question of party is involved?

Pandit Thakur Das Bhargava: That is a question of difference between one candidate and another; it is a question of difference between one individual and another. Do I understand Shri Raghavachari to say that they may all be brought on equal terms? I wish I had the sweetness of Shri S. S. More; I wish I had the intelligence of Shri N. C. Chatterjee. I wish there was equality in every respect. But how can we have that equality?

Shri S. S. More: We are not concerned with individual merits.

Pandit Thakur Das Bhargava: There are individuals who may be able to spend Rs. 25,000, whereas others may not be able to do so. How can we effect equality in that respect?

Shri Raghavachari: Equality before the law.

Pandit Thakur Das Bhargava: Equality before the law is there, because the rule equally applies to everybody.

Shri S. S. More: No.

Shri V. G. Deshpande (Guna): Suppose there is a small party.

Pandit Thakur Das Bhargava: Small parties which are not all-India parties, according to me, will not be recognised for this purpose. If a party consists of 100 men and if that party calls itself by any name, will that be a recognised party?

Shri V. G. Deshpande: It should be.

Pandit Thakur Das Bhargava: It should not be. So far as the Constitution is concerned, I have yet to know of a provision which says that a party shall consist of 100 men or 1,00,000 men. So far as fundamental freedoms are concerned, they are there in article 19 of the Constitution. But I do not know of any provision in the Constitution which says that all parties must be equal, that they must be equally rich and equally poor. There is no such provision in any Act, in any law or in any Constitution. All parties and all persons cannot be equal.

So far as clause 47 is concerned, I moved an amendment with your permission yesterday in relation to clause 7 which I ultimately withdrew. But that was a consequential amendment. I will deal with the main purpose of my amendment No. 84. Under article 329 of the Constitution, no election can be voided except through an election petition. That is the only course. According to the provision we are making in this Bill—section 123(6)—it is a corrupt practice to incur or authorise expenditure in contravention of section 77. If a person spends more than what he is authorised under section 77, where a ceiling is fixed, his election can be voided only by recourse to an election petition, not otherwise. So far as the Election Commissioner is concerned, if the accounts are placed before him in the manner and within the time prescribed, he is helpless, even if he comes to the conclusion that a particular candidate has indulged in a corrupt practice in terms of that section. Ordinarily, no candidate is likely to show in the accounts an amount more than what he is authorised to spend. But even if the accounts show more money than the ceiling prescribed, my submission is that so far as the law as it stands today is concerned, his election cannot be avoided except when there is an election petition under the law. And the Election Commissioner is not authorised to put in an election petition.

Ultimately it comes to this, that whatever amount a person may have shown in the accounts, his election can be avoided only if there is an election petition. He may have been guilty of a corrupt practice in terms of section 123(6). But he cannot be unseated except through an election petition. I would have liked a provision here to the effect that the Election Commissioner will be authorised to go into all the returns of these expenses and if he finds that there is anything which goes against the law, he can be authorised to proceed against the candidate concerned civilly or criminally or in any other manner. But that is not the law here today. Today the Election Commissioner is totally helpless in the matter, even if he is convinced that a person has spent much more than he should have according to the ceiling prescribed. That being so, I understand the only use of these election expenses returns is in connection with the filing of election petitions. There is no other use, except of course the one which I mentioned yesterday, namely, the use grocers can make of it after it is given to them as waste paper. If I am wrong, I would request any hon. Member to kindly contradict me.

That being so, I provide by this amendment that for election purposes the election tribunal shall be fully authorised to call for the returns of expenses of all those persons before it. If the petitioner comes with the request that he himself be declared elected in place of the returned candidate, he must come with his return of election expenses along with the petition. Otherwise, his claim to be declared as successful in place of the returned candidate will not be entertained. I have provided in this amendment that as soon as the election petition is filed, the Election Commissioner shall call upon the respondent to file his election expenses and he must do so not later than 7 days even earlier, if possible. After that has been done, the Election Commissioner shall inform the petitioner and he will be able to inspect the accounts and put in further allegations or fresh particulars and objections if he chooses to do so. They shall form part of the petition.

Ultimately, this amendment seeks, on the one hand, to effect the purpose which the framers of this law had in their view and, on the other hand, also meets the view-points of those who say that no person should be forced to give a return which he knows is not correct. In my humble opinion, the purpose being served, there is no point in keeping the present provision.

With your permission, I may cite a personal matter. In 1945, it so happened that I had to file my return of election expenses. At that time, there was no ceiling. The return had to be put in before the superintendent or the Commissioner according to law. The superintendent returned those papers to the man who took them to him. But, it did not come to my notice. On the last day, I received intimation that they had not been filed. Then, there was no rule for the removal of disqualification. If I had not filed the returns then, I would have been debarred and my election would have been set aside. My car was not in order and the taxi people demanded Rs. 250 for hire. My friends advised me to run. I ran and at 9.30 at night, I put in my return. It was by sheer chance that I was saved from the disqualification and I was declared successful. Nobody took the care of going through the return of election expenses and there was no ceiling.

Shri S. S. More: Why did he return the papers?

Pandit Thakur Das Bhargava: He wanted me to appear before him in person and put them. He was wrong and I had already sent my authorised agent. Otherwise, it would have been impossible for me to prove that he returned the papers without any endorsement.

My submission is that other difficulties also arise. According to the report of the Election Commissioner it took 8 months to remove the disqualifications. What is the use of having this provision if it is not effective? I would respectfully ask the House to consider my amendment in the spirit in which I am proposing it.

[Pandit Thakur Das Bhargava]

Yesterday, my complaint in this House was that it was not considered by the hon. Minister and he made no reply to it and then all the other amendments were rejected. I wish the matter to be very seriously considered. I am making this speech not for the mere purpose of making a speech but I make it because the matter should be seriously looked into. So many Members have expressed their view that there should be no return. At least in a large number of cases, they are not correct and cannot be correct—human nature being what it is. My submission is that after getting the purpose served, why are you forcing people to declare things which they know are not correct. I would ask the House to consider the amendment rather carefully.

Shri N. C. Chatterjee (Hooghly): I have carefully considered this clause 41 and I wish to submit for your consideration. for the consideration of the hon. Minister and also for the consideration of the House that this sub-section (4) of section 77, as you are incorporating in clause 41 will be repugnant to the Constitution of India and will be *ultra vires* and illegal.

If you see page 16, clause 41 says:

> For sections 76, 77, and 78 of the Principal Act, the following sections shall be substituted....."

Section 76 says that this chapter shall apply only to elections to the House of the People and the Legislative Assembly of a State. Section 77 deals with the kind of election expenses and the maximum there—

Sub-section (1) of section 77 says:

> "Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive."

As Pandit Thakur Das Bhargava has pointed out, we have taken steps to get rid of the difficulty created by the Supreme Court judgment in the Arcot case, that when a man applies to the Congress party or to any other party for the purpose of getting his nomination and if he gives an undertaking in writing that he shall never stand unless he gets that nomination, the fee which was paid to the party and all that must be taken as to be part of the election expenses. That has now been removed. We thought that there should be some provision made and this is a salutary provision.

Sub-section (2) says:

> "The account shall contain such particulars, as may be prescribed."

Sub-section (3) says:

> "The total of the said expenditure shall not exceed such amount as may be prescribed."

In our judgment, we are putting a ceiling. I do not maintain that this ceiling business ought to be modified or abrogated. But, anyhow, if this Parliament in its corporate judgment insists that there must be a ceiling, then, for Heaven's sake, make it an honest ceiling; do not put in any figure which is absolutely illusory. What you are trying to do by sub-section (3) you are trying to by-pass by sub-section (4). It is not in conformity with the mandate of the Constitution. You say,

> "The said expenditure shall not be deemed to include any expenditure incurred by a recognised party organisation for furthering the prospects of the election of candidates supported by it."

Then, you have added the Explanation:

> "The expression 'recognised party organisation' means a party organisation which has been recognised by the Election Commission in this behalf."

The effect is that although you are prescribing a maximum Rs. 25,000 which cannot be exceeded by any candidate, by saying that the expenditure incurred by a recognised party organisation for furthering the prospects of the election of candidates supported by it, you mean to say that a recognised party organisation can spend Rs. 50,000 for furthering the prospects of that particular candidate in a particular area. You are, therefore, sabotaging the maximum, you are destroying the ceilling and you are making it illusory. This provision practically removes the ceiling limit of expenditure in the case of candidates supported by a recognised party organisation. The party will be free to spend an amount of money for furthering the prospects of its nominees.

Thus, independent candidates and candidates of unrecognised parties and even candidates of recognised but poor parties, as Shri More pointed out, will be at a great disadvantage when pitted against candidates set up by powerful and resourceful party organisations. The ceiling was put down with a particular advantage and that poor candidates purpose that rich candidates and powerful and resourceful candidates should not have a particular advantage and that poor candidates should not be handicapped. In order to strike at the possible disparity, the ceiling was fixed. But, by sub-section (4), you are really destroying this ceiling.

My point is this. The Supreme Court in the West Bengal case of Anwar Ali Sarkar, which is reported in *AIR* 1952 *Supreme Court*, 75, has laid down clearly that no law which commits to the unrestrained will of a public officer to do some act for which the statute itself does not prescribe any standard or norm is Illegal and that law is not in conformity with the Fundamental Rights in article 14. Any clause or any statute which enables a public officer to make a purely arbitrary selection based on nothing but his will or pleasure should be struck down as unconstitutional. The Supreme Court has said that such a statute completely ignores the principle of classification. On the face of it the statute gives unregulated discretion to the official and, therefore, it is struck down as illegal.

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Mr. Speaker: What was the particular matter? Please tell me, but not *in extenso*.

Shri N. C. Chatterjee: The clause Special Courts Act of the West Bengal which was struck down as illegal was this:

> "A Special Court shall try such offences or classes of offences or cases or classes of cases as the State Government may by any general order or special order direct."

The argument was advanced that this is not in conformity with article 14, that it is repugnant to article 14. Would you kindly look at the judgment of Justice Fazl Ali which is at page 84? I have got a copy of it here for you and you may kindly have a look at it. Fortunately, in the All-India Reports, the judgments bear paragraph numbers. If you look at page 84 of the Supreme Court paragraph 29, Justice Fazl Ali say:

> "The first criticism which is by no means an unsubstantial one. may possibly be met by relying on the decision of this Court *In re Constitution of India and Delhi Laws Act* (but I am relying on the next passage) but the second criticism cannot be so easily met since an Act which gives uncontrolled authority to discriminate cannot but be hit by article 14 and it will be no answer simply to say that the Legislature having more or less the unlimited power to delegate has merely exercised that power."

If you look at another passage in the judgment of Justice Mahajan, later the Chief Justice of the Supreme Court, you will find on page 86, right-hand column, second paragraph, the following passage:

> "This present statute suggests no reasonable basis or classification, either in respect of offences or in respect of cases. It has laid down no yardstick or measure for the grouping either of persons or of cases or of offences by which measure these groups could be distinguished from those who are outside the purview of the Special Act. The Act has left this matter entirely to the unregulated discretion of the provincial government."

I respectfully submit that here this statute is leaving the matter entirely to the unrestricted discretion of the Election Commission and it prescribes no yardsticks, it prescribes no measure for grouping and it lays down no principle whereby recognition should be granted.

If you kindly look at page 86, last three lines, on the right-hand column, you will find this:

> "Even if it be said that the statute on the face of it is not discriminatory, it is so in its effect and operation inasmuch as it vests in the executive government unregulated official discretion and, therefore has to be adjudged unconstitutional."

The argument of the Attorney-General was put in this way. "You must in fact show that in the particular cases when the Dum Dum prisoners were sent to the Special Court, the Government of West Bengal did something

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with an oblique motive." My argument was that if the statute on the face of it permits discrimination or arbitrary selection, then I was relieved of that burden. That is why the Chief Justice says there:

> "Even if it be said that the statute on the face of it is not discriminatory, it is so in its effect and operation inasmuch as it vests in the executive government unregulated official discretion and, therefore, has to be adjudged unconstitutional."

Mr. Speaker: Can the Election Commissioner be called an executive person?

Shri N. C. Chatterjee: I am pointing out that the same principle should operate, whether it is the Governor's discretion or that of the executive government or of another official.

Mr. Speaker: Somebody must say a word finally. The Supreme Court decides it. They have got a Bench, or one Judge decides it.

Shri N. C. Chatterjee: The Judge decides according to the Civil Procedure Code or the Criminal Procedure Code, or the Penal Code or other statutes. Therefore, a yardstick is prescribed. It is only the application of those standards, those norms, those yardsticks to the particular facts of the case. Do not exercise unregulated power. That is what the Supreme Court judgment says. Please look at page 91, left-hand column, last three lines:

> "but the selection is left to the absolute and unfettered discretion of the executive government with nothing in the law to guide or control its action. This is not a reasonable classification at all but an arbitrary selection."

I submit, whether you leave it to the executive government or a particular officer, say, the Auditor-General, or the Attorney-General, even then the same principle should operate. If the selection of a particular party as a recognised party is left to the absolute and unfettered discretion of some officer or some high functionary with nothing in the law to guide and control his actions, then that is not a reasonable classification. The Attorney-General very strenuously urged that it was absurd to suggest that in a case where a large number of people were assaulted and murdered, the Government of Bengal did not do its duty and apply its mind, but they rejected that contention.

Mr. Speaker: Does the hon. Member suggest that there must be some rules prescribed under which he must exercise this power?

Shri N. C. Chatterjee: That is exactly what I am submitting. Kindly look at page 92, first para on the left-hand column, the last four lines. If I may read to you my argument, which was accepted by the Supreme Court—by Justice Mukherjea—you will find that what I am submitting is the correct law:

> "This sort of committing to the unrestrained will of a public officer the power to deprive a citizen of his right to carry on lawful business was held to constitute an invasion of the Fourteenth Amendment (which is like our fourteenth article in the Constitution)."

The statute must prescribe norms, canons or standards; otherwise there cannot be a good valid law. If you look at page 92, last ten lines on the left-hand column, you will find this:

> "The position, therefore, is that when the statute is not itself discriminatory and the charge of violation of equal protection is only against the official, who is entrusted with the duty of carrying it into operation, the equal protection clause coulld be availed of in such cases; (I am relying on the next sentence) but the officer would have a good defence if he could prove *bona fides*. But when the statute itself makes a discrimination without any proper or reasonable basis, the statute would be invalidated for being in conflict with the equal protection clause and the question as to how it is actually worked out may not necessarily be a material fact for consideration."

Chief Justice Mukherjea held that when the statute prescribed no standards and no reasonable basis, it would be invalidated because it is discrimination on the face of it.

> "The discrimination arises on the terms of the Act itself. The fact that it gives unrestrained power to the State Government to select in

> any way it likes the particular cases or offences which should go to a Special Tribunal and withdraw in such cases the protection which the accused normally enjoy under the criminal law of the country, is on the face of it, discriminatory."

I may read out to you one other passage from the present judgment of the present Chief Justice Das which you will find on page 97, paragraph 64 :

> "It is, therefore, clear for the foregoing reasons, that the power to direct "cases" as distinct from "classes of cases" to be tried by a Special Court contemplates and involves a purely arbitrary selection based on nothing more substantial than the whim and pleasure of the State Government and without any appreciable relation to the necessity for a speedier trial.
>
> Here the law lays an unequal hand on those who have committed intrinsically the same quality of offence. This power must inevitably result in discrimination and this discrimination is, in terms, incorporated in this part of the section itself and therefore this part of the section itself must incur our condemnation. It is not a question of an unconstitutional administration of a statute otherwise valid on its face but here the unconstitutionality is writ large on the face of the statute itself."

I submit that it is the correct view. Chief Justice Shastri had taken a different view but all the other Judges took the same view. That has been followed in the latter cases. In 1954 *Supreme Court*, page 225 in the judgment delivered in Messrs. Dwarka Prasad *versus* State of U. P. it says—I am reading the judgment of Justice Mukherjea—

> "Practically the Order commits to the unrestrained will of a single individual the power to grant, withhold or cancel licences in any way he chooses."

When a statute does so, he says it must be struck down as illegal it cannot sustain the constitutional requirements of a valid classification.

Mr. Speaker: Is the hon. Member suggesting any alternative?

Shri N. C. Chatterjee: In any event, caluse 41 should go. There should be no such possibility of discrimination. As the present Chief Justice, was, said, it was no question of an arbitrary application of a valid constitutional provision. I may not belong to a recognised party. The other man can spend Rs. 25,000 *plus* get the benefit of another Rs. 25,000 being spent from the party fund.

Mr. Speaker: If a party has got funds and carries on propaganda, what can be done? All that one can say is that any contribution by this member to the party may be taken into account.

Shri N. C. Chatterjee: Everybody should be on the same footing. I am now on this constitutional issue. You say that recognised parties will be justified in doing some things. Immediately you say that recognition is left to the sweet, uncanalised, unrestricted will or pleasure of a public functionary, even if he acts *bona fide* I am not imputing *mala fides* to him the point will arise.

Mr. Speaker: We will assume that a person belongs to a party. It may not be such an important party. But what is the good of ceiling and other things if that man is not getting another man to follow him. There cannot be a party of one man. A rich man can spend any number of crores. Putting this ceiling, etc., will all be useless. What is the object of this ceiling if there is no party?

Shri S. S. More: Even one man may form a party. He may have a large following. Is there any definition of party (*Interruptions*).

Shri Raghavachari: Yesterday, I made a point regarding this matter about the organisation formed by voters in hundreds or a thousand. An individual may stand; he may not belong to any party. This organisation may spend Rs. 10,000. Why not?

Shri N. C. Chatterjee: What I am pointing out is this. We should do nothing consciously in violation of article 14. Article 14 has gone much farther than the English concept of equality. There is equal protection of law also. You deprive both equality before law and equal protection before law. If you

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leave the judgment to the view, uncanalised view, of one single functionary without laying down any norms or standards, it is not proper.

Mr. Speaker: The general principle is accepted that without any rules or regulations it ought not to be left to the sweet will of an officer, whoever he may be though he may act with *bona fides*. We assume that this principle is accepted. What next? When he wants a ceiling and wants accounts to be furnished at the same time, what happens? Unless some party restrictions are there or something of this kind is there for an individual, there is no meaning in imposing these restrictions when an individual can call himself a party and he can go on.

Shri N. C. Chatterjee: It can be done in two ways. Either omit this clause. There is another way which Shri Deshpande suggested. Call all parties to submit their accounts. Then, it will be open to scrutiny. Do not leave it to the unfettered will or judgment of one man to say: 'I can give recognition to this party or that party.' Whatever parties run the election, let them submit their accounts.

Mr. Speaker: Of what purpose will it be unless it is also said that the amount spent by the party will also be taken into account.

Shri N. C. Chatterjee: Quite right, that is what I am saying. If you want to rope in party expenditure, all the parties should be put on the same footing without any discrimination. As the law stands now, it will be struck down as discriminatory because it is final and it is arbitrary selection. It will lead to great trouble.

As I have told you, Justice Mukherjea has said this in so many words. In the 1954 case which I quoted, there was a similar power and the judgment said that this order committed to the unrestrained will of a single individual the power to grant, withhold or cancel licences in any way he chose. It reads:

> "....there is nothing in the Order which could ensure a proper execution of the power or operate as a check upon injustice that might result from improper execution of the same."

Therefore, there is no appeal; there is no review. It was contended that there was a safeguard by reason of the fact that the licensing authority in that case had got to record reasons for what he did; he had to write out a judgment. For that, they say:

> "This safeguard, in our opinion, is hardly effective; for there is no higher authority prescribed in the Order who could examine the propriety of these reasons and revise or review the decision of the subordinate officer."

Therefore, it was struck down. If the hon. Minister insists that there should be some kind of a recognised party, then the statute must be amended; it must lay down a yardstick and a standard. The House must legislate. Otherwise, you will allow somebody else to legislate.

Mr. Speaker: Under the earlier Act the parties had to have symbols. That power was in the hands of the Election Commission. It was equally open to objection. Did anybody take a similar objection?

Shri N. C. Chatterjee: Practically, in all cases they accepted the symbols suggested or sent for the particular candidates and arrived at some kind of a settlement.

Mr. Speaker: I am only saying this. I wanted to know whether this is on all fours with that.

Shri N. C. Chatterjee: I am submitting the *Ratio decidendi*. That is the point of the present Chief Justice. It is not the question of unconstitutional, arbitrary application of a valid constitutional law. When a statute itself leaves uncanalised power and unfettered discretion to a single official without prescribing indicia, without prescribing canons, without laying down a yardstick, then discrimination is writ large on the face of the statute itself and it must be struck down as illegal, as repugnant to the law.

Some Hon. Members *rose*:

Mr. Speaker: Let us hear Shri Venkataraman's view on this point.

Shri Venkataraman (Tanjore): If that point alone is to be discussed, then I would reserve my remarks because I have to move my amendment No. 229.

Mr. Speaker: I will dispose of all these matters together.

The Minister of Legal Affairs (Shri Pataskar): Then shall I reply at the end to all the points?

Mr. Speaker: Yes. Then let us hear Shri Gadgil.

Shri Gadgil (Poona Central): Mr. Speaker, the point raised by Shri Chatterjee is very important and I have not the slightest doubt that, if the object of the entire Bill is to secure purity in the matter of election, due consideration will be given to it. Whether the discretion is used arbitrarily or in an uncontrolled manner, the fact remains that only one officer is invested with that power. But if it is possible by rules to lay down a frame-work of well-defined principles within which the particular authority has to function in the matter of recognition, then, I submit, all those arguments which were advanced by Shri Chatterjee will be met.

Although the House is entirely with him that the discrimination, or discretion rather, left with authority must not be arbitrary, but there must be some sort of judicial discretion which must work within the frame-work of certain well defined principle, if the whole section is omitted, one must consider what will be the consequences. My own view is that, instead of omitting the whole sub-clause (4), the better way is to incorporate certain principles on which recognition should be granted by way of rules. Those rules will be passed by this House.

When we conceive of democracy, we cannot conceive of democracy without parties, for discussion is supposed to be the soul of democracy and there cannot be any discussion unless there are two views on any particular matter. When there are two views, two persons will espouse them. They have a right to propagate. Like that two or more groups will come into existence and more parties will come into existence. We must precisely understand and appreciate the function of parties in a democratic constitution. My humble view is that a party is the repository of ideas and ideals which are fashioning the life, intellectual, moral and otherwise of the community. When these ideas are discussed, out of that discussion a sort of public opinion or social thought is bulit up. And, when that social thought is adopted by a party as its political platform and when the electorate approves of that particular party's platform, then that party's function is that of a mediator, who mediates the social thought with the party in power for the purpose of translating by political action in a concrete way what they have preached so far. That is the function of a party in a democracy.

If that view is correct, then it is irrelevant whether the party consists of one man or consists of two men. The idea is that there is a different view of a particular situation. The idea is that one man thinks differently of a particular thing and has a different remedy to offer for the solution of a problem. Therefore, if he is one, he has a right to be called a party, because if he is one today he may be a million tomorrow, and what is a majority today, it is just possible, will be a minority tomorrow. It is also possible, what is a minority today may, if luck favours at the election, be a majority tomorrow. That is precisely the soul of democracy and the process through which it operates.

Therefore, the whole point is, if that is the position of the party and if the party runs a candidate, then the individuality of the candidate is not of such a great importance as the sponsoring of that particular individual by the party in terms of a particular political programme and ideology. Between the party and the individual there is identity of political thought; there is, so to say, unity of purpose and uniformity of method. How can you say that this expenditure was not undertaken by the individual but by the party? The society, in the interests of purity of election, is entitled to know what the party has spent.

The present position is that whatever the party spend has to be shown in the election return. I do not know about the experience of other people, but so far as I am concerned, in my election return I had to show that I paid Rs. 2000 to the Maharashtra Pradesh Congress Committee for general propaganda. I had also to show that the Maharashtra Pradesh Congress Committee spent so much for so many candidates. So, we arrive at the figure which, according to this election, was spent for me. I had to show all that in my election return. This is somewhat difficult. I understand the difficulty of the whole process.

[Shri Gadgil]

Therefore, I am suggesting—although I have not put in any concrete amendment—that since we have now to function as a democracy let us try to perfect this instrument as much as possible. Let the Election Commissioner have the power to ask the State organisations of every party,—take, for example, the Bombay State, Maharashtra or Andhra—the party organisation for a particular region, to give generally what they have spent for the candidates of their party. That would be an election expenditure altogether different and may not be covered—or, rather, should not be covered—under this clause. For example, the Maharashtra Pradesh Congress Committee can say that it had to run about 120 candidates for the Assembly and about 20 or 24 candidates for the Parliament and that it had spent Rs. 1 lakh, giving the main heads of expenditure. If the main heads are consistent with the provisions which govern the individual returns of accounts, then only it should be passed; otherwise, the Commissioner should have the same power to take action in the matter of the party, which he undoubtedly has in the matter of an individual.

If you leave the thing as it is, it is just possible that the party may engage any number of vehicles; the party may open *langars* and free kitchens and yet the Election Commissioner cannot touch those expenses because under this proposed sub-clause (4) they are not to be accounted for in the returns of expenditure of the individual.

Now, if the assumption I have made, namely, our whole objective is to secure purity of election, is correct, then what I have suggested is perfectly consistent and should be followed. But if the object is something different, then I have nothing to say.

Secondly, the community is entitled to know the sources of supply of funds for every party. I know a party which is about to be born and for which circulars have gone round to supply the necessary funds. The objective is to sabotage the Congress and to boost up private enterprise. Then we are entitled to know who are the suppliers of funds. We are entitled to know who are the suppliers of funds of every party, so that the community may know. . . .

Shri S. S. More: Is it a party of the private sector?

Shri Gadgil: That will be too much 'public' to say here. The point is that the community is entitled to know. If the community thinks that a particular party is supported by some foreign country or by the capitalists or by the reactionary elements in the society, then the electorate must know in their own interest whom to support. After all, our Shastras said : "अन्नमया: प्राणा:" The money that you get brings with it not only the material strings but the moral strings are also there. You cannot escape that. When a man who has helped you, a man who has financed you in your election, comes to you with a particular demand, it is very difficult to say "No". Very few have got the courage. I am talking about no particular party.

Shri S. S. More: We know it.

Shri Gadgil: We are talking about every individual and every party. The point really is that in the interests of purity of election, we must know what section of the community has financed which particular party. It is only then that purity will be possible in the method and processing of the election. My own submission is, if you omit the clause, then you are not making any positive contribution for purifying the process but you are simply leaving the things as they are, with plenty of scope for all sorts of manipulation of accounts. I am of the view that there must be a ceiling on expenditure. It is no use saying that certain people do not return the accounts properly. The Indian Penal Code is there and in spite of it some crimes are committed. At the same time, we must agree that because of the Indian Penal Code most of the people do not commit crime. Therefore, there must be some ceiling and there must be a provision which I suggested earlier. It may not be a part of this, but the Minister in charge may consider in what way the party is made accountable to the community in the matter of election expenses. Otherwise we will have the same methods which we have in other western countries where huge public propaganda goes on over the radio, in the press and at public meetings, and there is no accounting-for it. He who has got a long purse wins. We want that he who has got the ability should have the greatest chance to win.

Dr. Krishnaswami (Kancheepuram): Mr. Speaker, I am afraid that the House has to ponder over the implications of this particular clause with great care. The whole clause is misconceived in my opinion. Generally, election propaganda starts long before the writ is issued. A party with resources and leaders in power is placed at an advantageous position by having all expenses excluded from the accounts. The major part of propaganda expenses are incurred before the writ is issued. The candidates who are formally nominated after the notification are selected much earlier and the prospective candidates hold themselves out long before the notification is issued. I, therefore, want the House to consider the seriousness of the change that has been effected. The orignial clause which is in the present law is a much better clause, because it laid down that from the time the candidate holds himself out for election, he is accountable for all expenses incurred by him or the agent or the party. My hon. friend Pandit Thakur Das Bhargava pointed that we have now made this provision certain by fixing dates. Quite true. But what is the objective of this particular clause? We want to have a ceiling on expenses. We should not make the clause so certain as to make the ceiling on expenses most uncertain, and that is exactly what has been done by sub-clause (a) of clause 77.

As regards clause 4, I am in agreement with my hon. friend who has preceded me. He suggested that we cannot have any criteria for determining for a 'recognised party'. I should like to point out that it is quite irrelevant to suggest that people who are opposed to this particular clause are opposed to the formation of parties. We all know that parties are necessary for the working of a democracy. But it is not a new discovery. Bolingbroke and Burke had discovered it long ago, but did not suggest that a ceiling on expenses and submission of accounts would kill parties.

I should like my friends to bear with me for a while when I refer to the English law on the subject which does not give a similar exemption to parties. It has struck a compromise which we might well turn over in our mind I believe that part of our difficulty with the existing law is because Dr. Ambedkar who introduced this measure, wanted to be too restrictive without considering the items of expenses that should be allowed for parties and associations. Yesterday, one of my hon. friends pointed out that where a thousand electors in a particular constituency join to back a particular candidate, they must be considered to be an association. I think the English law on the subject is pretty clear, and I wish the House would pay some attention to it:

> "The following have been held to be legitimate objects of a political association :—

They do not use the words "recognised party association".

> "the securing the return to parliament of candidates representing the political views advocated by the association ; the attending to registration and thus securing as perfect a register of voters as can be obtained, and the collection of subscriptions to a fund for this purpose ; the giving of lectures on political subjects and the distribution of literature in the shape of pamphlets and leaflets; or organisation of, and uniting to give, social and other gatherings or fetes confined to their own members and which, but for such union or association, the members would not be able to afford."

Parker pointed out that these matters came up for review in the case of North South in 1911 in the United Kingdom. What the judges said in this case is important.

> "It would also appear to have been the view of the judges that there is no illegality or impropriety in the sitting member or candidate assisting in these operations provided they are directed to the general interests of the association and are unconnected with a particular election".

May I remind the House so long as the activities of the association are unconnected with 'a particular election' the candidate is not enjoined to submit accounts of expenses incurred for these purposes. I would like to

[**Dr. Krishnaswami**]

point out that we must take into account also the fact that it is not only political parties that back up certain people for seats in Parliament or in the State legislatures. There may be trade associations and trade unions, and these have been recognised in the United Kingdom. The law on the subject of non-political association is clear.

> "It has been stated that a trade association occupies a very different position from a political association; that it may have a distinct and direct interest in the election, and a preference for one candidate over another; and that to enable it to determine which candidate it prefers, it may send out circulars, hold meetings, invite opinions, and incur expenses without necessarily making the association, or its executive committee, agents of the candidate whose election it favours and desires to promote. Such bodies as temperance or anti-vacination societies have been instanced as associations to which this principle applies."

But, where is the line drawn? When are expenses incurred by associations part of the election expenses of the candidate. The moment the candidate 'holds himself out for election,' these associations, if they further the election campaign and incur expenditure, are accountable and become agents of the candidate. Therefore, I do not see any reason for all the argument that if we have a prominet leader speaking in a particular constituency he will be debarred from so doing if we make the candidate liable for the expenditure incurred.

My hon'ble friend Shri Venkataraman, moved an amendment, certain portions of which appealed to me. To that amendment, I have given another amendment. If you Mr. Speaker, are kind enough to waive notice, I shall move it.

I beg to move:

In the amendment proposed by Shri Venkataraman, printed as No. 229, in list No. 17—

(i) *for* "a recognised party organisation" *substitute* "a party organisation or association"; and

(ii) *add* at the end "and not for furthering the prospects of any particular candidate".

Shri Venkataraman: What is the amendment?

Dr. Krishnaswami: The amendment is to add at the end of the words "and not for furthering the prospects of any particular candidate". Suppose, for instance, the Prime Minister goes to a particular constituency and speak generally furthering the Congress Party without sponsoring any particular candidate, that cannot be said to be part of the election campaign of the candidate. But, supposing he goes to a particular constituency and addresses 7 or 8 meetings, then of course, it would be sponsoring that particular candidate. Even though he may not have said that that candidate should be sponsored, all the expenses that are incurred in this connection should certainly be part of the expenses which the candidate has to submit. The same holds good for other prominent leaders.

Shri Kelappan (Ponnani): Does it not make any difference if the expenditure is incurred after the candidate is announced?

Dr. Krishnaswami: The Court has held that even if the candidate has been announced, unless the expenditure is specifically connected with his campaign, it is not possible to say that it is part of his expenditure. That is the law on the subject.

Shri K. K. Basu (Diamond Harbour): I would like to understand your point. Do you want to insist that even if the name of the candidate is mentioned in the circular.....

Dr. Krishnaswami: My hon. friend will have to wait to understand my point because I am elaborating it. Section 63 of the Representation of the People Act of the United Kingdom reads as follows:

> "63.—(1) No expenses shall, with a view to promoting or procuring the election of a candidate at an election be incurred by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account—
>
> (a) of holding pubilc meetings or organising any public display; or
>
> (b) of issuing advertisements, circulars or publications; or
>
> (c) of otherwise presenting to the electors the candidate or his views or the extent or nature of

his backing or disparaging another candidate."

These are legitimate restrictions. There are certain exceptions provided and they are important.

"Provided that paragraph (c) of this sub-section shall not—

(i) restrict the publication of any matter relating to the election in a newspaper or other periodical; or

(ii) apply to any expenses not exceeding in the aggregate the sum of ten shillings which may be incurred by an individual and are not incurred in pursuance of a plan suggested by or concerted with others, or to expenses incurred by any person in travelling or in living away from home or similar personal expenses."

There is also a section about advertisement, how much is permissible and so on. It gives full latitude to any political organisation to campaign or canvass for support. After all, this is one of the reasons for a party's existence. No one wishes to interfere with the freedom of a party; all that I suggest is that in our championship of freedom for a party, we should not forget that we want to have a ceiling on expenses. Without having a ceiling on expenses, we cannot give equality of opportunity to all citizens who desire to seek election to Parliament or to the Assembly.

I, therefore, think that it is unfortunate that we should use the word "recognised". What is recognised by the Election Commissioner may not be recognised by the people. What is not recognised by the Election Commissioner today may be recognised tomorrow by the people. The Fourth Party in Parliament which consisted of four individuals, Lord Randolp Churchill, Mr. Malfour, Mr. Gorst and another a potential force in the eighties and was able to break Mr. Gladstone and bring about a brilliant transformation of politics in the United Kingdom. May I point out that some of the arguments that have been propounded on the floor of this House today bear a family resemblance to the arguments presented by Joseph Chamberlain in 1878 when he suggested that the Caucus, which was a political organisation, should have the facility to incur unlimited expenditure without being called to account by any election court or election tribunal. These were rejected by the sound commonsense of the people of the United Kingdom. The people felt that if this view, was accepted individuals would be placed in a disadvantageous position and the Caucus would dominate the State. No one wants political parties not to organise and propagate their views. The question is that whether they should be accountable to the Election Commissioner for expenses incurred in connection with the election of a candidate. I suggest that the House should give mature consideration to this matter. I hope the House would accept my amendment to Mr. Venkataraman's amendment or the amendment which has been moved by my friend, Mr. Kamath, namely, the omission of sub-clause (4) altogether.

Mr. Speaker: Amendment moved:

In the amendment proposed by Shri Venkataraman, printed as No. 229 in list No. 17—

(i) *for* "a recognised party organisation" *substitute* "a party organisation or association" and

(ii) *add* at the end "and not for furthering the prospects of any particular candidate."

Shri Venkataraman: Discussion on this clause has proved that simplification of legislation is no virtue. Actually, by trying to club together the major corrupt parctices, the minor corrupt pratices and the illegal pratices, we have landed ourselves in this difficulty. As the law now stands, expenses incurred by the party are covered under the explanation to section 125. There, it is an illegal practice on the part of any person to incur expenditure on account of holding any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever. The exception to this rule is contained in the Explanation which says that if any individual or organisation incurs the aforesaid expenditure for the furtherance of the prospects of the election of a candidate, it is not considered to be an illegal practice. Now that we have omitted illegal practices, we find ourselves in the position of having to provide for the need to protect the expenditure incurred by organisations or political parties. That I think is the main

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difficulty in accepting the suggestion made by my esteemed friend, Mr. Chatterjee. He suggested the dropping of sub-clause (4). What would be the result if we drop altogether sub-clause (4) of clause 77? It will again throw open a question whether expenditure incurred by organisations or parties are or are not included in the calculation of the total amount of expenditure. Therefore, my submission is that we have to substitute sub-clause (4) by some acceptable form.

Shri N. C. Chatterjee: I may point out that section 77(1) says that every candidate shall by himself or by his election agent keep a separate and correct account of all expenditure in connection with the election incurred by him or authorised by him or by the election agent to be incurred. I may refer to one case. There was an old zamindar over 80 years and his son was contesting the election. The manager and the staff of the zamindar all canvassed for the zamindar's son. The election was set aside because the return of the election expenses did not show the salary of the manager and the zamindar staff. The Supreme Court said that it was thoroughly proper, because he never incurred that expenditure and he never authorised that expenditure.

Shri Venkataraman: This leads really to the conclusion that whatever expenditure is incurred by any party without a ceiling or without any limit would not be considered to be election expenses of the candidate. And the result is that all talk about ceiling vanishes.

Some Hon. Members: Certainly.

Shri Venkataraman: Is that what the House wants?

Some Hon. Members: No.

Shri Venkataraman: From the trend of the discussions, from the arguments advanced the whole of yesterday, the desire of the House was that we should restrict the enormous expenditure by organised parties. It was not the intention of the Members to allow unrestricted expenditure in the name of politcal organisations.

Shri S. S. More: You cannot prevent it.

Shri Venkataraman: Therefore I am only submitting that if you want to restrict, if it is the desire of the House that expenditure by political parties in furtherance of their candidates should also be restricted and that political parties should not be allowed to spend without any limit in furtherance of their candidates, then, certain restrictions would have to be placed in the manner in which that expenditure is incurred. Therefore I have suggested that in the place of sub-clause (4) the following may be substituted. That is amendment No. 229.

> "The said expenditure shall not be deemed to include any expenditure incurred by a recognised party organisation on election propaganda and publicity (such as holding public meetings, posters and advertisements) for furthering generally the prospects of the election of candidates supported by it."

I have no objection to accept Dr. Krishnaswami's amendment which really goes to improve it, that is, and not for furthering the prospects of any particular candidate.

Dr. Krishnaswami: What about the other amendment? I wanted that 'recognised' party should be omitted.

Shri Venkataraman: His suggestion is not only the parent organisation, but any association should be included.

Shri S. S. More: He said, omit the word 'recognised'. It can be available to all parties.

Shri Venkataraman: There is only one difficulty about accepting the language suggested by Dr. Krishnaswami, not for furthering the prospects of any particular candidate. Suppose there is a bye-election and there is only one candidate. The party organisation goes and does propaganda on behalf of the party. In that case, would it be an argument that it is expenditure which is debitable to the individual? What would it come to under the exemption granted under the clause?

Shri S. S. More: Can you suggest an amendment deleting the word 'recognised' with the addition suggested by Dr. Krishnaswami? It will be available to all the parties concerned.

Shri Raghavachari: Exactly.

Shri Venkataraman: So far as the word 'recognised' is concerned, I have a suggestion to make, and I shall be glad if the hon. Minister would consider it. We can say that a recognised party means a party organisation which has an election symbol. Election symbol is given....

Some Hon. Members: No, no.

Shri Venkataraman: That would be one of the ways in which it can be done. Or, in the alternative we might say, it may be determined in accordance with the rules as may be prescribed. The Rules will be laid on the Table of the House.

Shri S. S. More: We consent to the adoption of the Explanation given in section 125 which is sufficiently comprehensive, which you have read. Leave aside party. What is a party will be a matter of interpretation. We have dropped illegal expenditure. In this particular clause, we will insert this Explanation.

Shri Raghavachari: The amendment is taken entirely from section 125. The substance is the same. The word 'recognised' is put in there. That is the whole point.

Shri Venkataraman: So far as the question of 'recognised' party is concerned, I hold no strong opinion. I am only anxious about the restriction of expenditure by parties concerned. That would be covered by the amendment which I have submitted. So far as recognised parties are concerned, it may be left to the Election Commission to decide in accordance with the rules prescribed.

Some Hon. Members: No, no.

Shri Raghavachari: What about individuals? Discrimination against individuals.

Shri S. S. More: All talent will be individual.

The Minister of Commerce and Industry and Iron and Steel (Shri T. T. Krishnamachari): What about super individuals like Shri S. S. More?

Shri S. S. More: They will be in the Congress party.

Shri Venkataraman: So far as the point raised by Shri N. C. Chatterjee with regard to the constitutionality of sub-clause (4) is concerned, in all such matters where there is a doubt whether a particular provision is within the competence of the House or constitutional, the Chair does not take the responsibility to give a ruling whether it is *ultra vires* or *intra vires*, but says that it shall be left to the court to decide and interpret, unless it is *ex facie* on the face of it contrary to the Constitution. Here my submission is that it is not *ex facie* contrary to the Constitution. Under article 324, powers are given to the Election Commission. Secondly, the Election Commission is an independent authority and not an executive authority. Therefore, I submit that no ruling need be given on that. The amendment may be considered on its own merits.

Pandit Thakur Das Bhargava: Under article 329, any law framed under articles 327 and 328 cannot be questioned in a court of law.

Shri Venkataraman: That is only with regard to delimitation of constituencies.

Pandit Thakur Das Bhargava: Kindly see article 329. That is with regard to all matters connected with elections.

Shri Venkataraman: Article 327 relates to delimitation of constituencies and all other matters.

Shri T. T. Krishnamachari: That does not prevent Shri N. C. Chatterjee from getting a brief.

Shri Kamath: I have no hesitation at all in saying that by sponsoring this amendment, the ruling party is laying the axe at the root of fair and free elections which are the very basis of parilamentary democracy. If this amendment is accepted by the House, India will be well set on the road to plutocracy, and what is worse, plutocratic autocracy. I have moved amendment No. 129 seeking to omit lines 27 to 33 which include sub-clause 4 and the explanation thereto.

What is the genesis of this amendment that the Government is seeking to incorporate in this Bill? If you will kindly turn to section 125 to which my hon. friends have made reference, you will find that the party expenditure in elections, though not required to be authorised by the candidate or election agent under section 125, had to be shown in the return. In Madhya Pradesh, some Election Tribunals have held that not to show such party expenditure incurred in connection with the election would be an illegal practice and on that basis, if the ceiling

[Shri Kamath]

was exceeded, the election could be set aside. If this could be retained as it is, that would be the best. But, they have deliberately brought this amendment before the House. I suspect a sinister, ulterior design behind this amendment. There is no room for laughter. It will be clear in a few months. My hon. friend Shri Asoka Mehta said that Rs. 3 crores have already been collected or will shortly be collected. My information is that not less than Rs. 5 crores have been collected. My friend Dr. N.M. Jaisoorya says Rs. 7 crores. This money has got to be spent somehow or other in coming elections. During the last two or three years, the bye-elections in various parts of the country, U.P., Bihar, Bengal and Maharashtra recently, have given jitters to the Congress party and it is feeling jittery over the affairs. They may not be upset over the verdict in Bengal, Bihar or Maharashtra. They may enjoy a little longer now; I will not deal with that today. But now the plan before them is how to win the coming elections. And this is the keystone to the arch of the plan. Three crores have collected, and they shall be spent somehow—येनकेन प्रकारेण as the saying goes—and that need not be shown in the return of election expenses, under this clause.

1 P.M.

My hon. friend the Minister said yesterday in the course of his reply, and some hon. colleagues on the other side of the House made a point, that in an election every party will work for its candidates generally and propagandise its policy and programme, and not work for any particular candidate. I am sorry, the experience during the last election, the general elections I mean—in by-elections we work for a particular candidate, we cannot get out of it—the experience that I gained in the general elections was quite the contrary and I am grieved to say that the Prime Minister himself set an example in this matter, by not working for the party as a whole but for particular candidates. I would not have referred to this matter at all, but this point has been raised that in general elections a party should work for its candidates as a whole and not for individual candidates. I refer to this matter in another connection, during the debate on the President's Address, and I would like to revert to it because it is a moot point in this particular discussion today.

The Prime Minister, in the last general elections, sent a letter marked 'secret' to Sheikh Abdullah, asking for his help, for workers from Jammu and Kashmir to help particular candidates, named candidates, candidates by name, in three constituencies: one, I would not like to name, because he is a member of the House, and two other candidates, Syed Ahmed in Hoshangabad and Abdul Ghani in Gurgaon—as I said; the other one being present in the House, I would not like to mention his name. These three names were specifically mentioned by the Prime Minister to Sheikh Abdullah in that letter. I have got with me a photostat copy of it and, Sir, if you so desire I will place it on the Table of the House.

I would like to press this point home that the Prime Minister himself and other Ministers also—about the latter I have got no documentary proof—have worked for particular candidates because of communal, or may be secular, considerations—in whichever way you may like to put it. Here I would like to read the last sentence of that letter.

Mr. Speaker: Does the hon. Member mean that it was not open to a Minister to work?

Shri Kamath: The party works for its candidates as a whole and not for a particular candidate, in the general elections.

Mr. Speaker: Both; it is open to any person to work for any candidate.

Shri Kamath: Then the expenses must be shown in the return of election expenses. That is what I mean. For instance, as regards Syed Ahmed, suppose the Prime Minister had come, and suppose Sheikh Abdullah or his workers had come from Kashmir, in an aeroplane. How will this work? If this new amendment is adopted, how will it work in general elections and in a bye-election? In bye-elections the individual candidates will be helped by a party, and that will have to be shown in the return of election expenses if you want free and fair elections. And in general elections also it was proved that this happened.

How is it possible to prove that so-and-so worked for a particular candidate? Therefore, the Tribunals have held that party expenditure, wherever public meetings are held and workers; what are called 'agents' are arranged, all the salaries and remuneration paid to them should be shown. One of my friends referred to the fact that in a particular constituency the Prime Minister addressed eight meetings, in another one meeting, and in another no meeting. Why should the expenses not be shown in the returns of election expenses? It is very unfair not to show them. There is no fairness if it is not shown.

I therefore suggest that in fairness, freedom and justice (*Shri B. S. Murthy*: And fairplay) and fairplay, the provision should not be butchered to make a Congress holiday in the next elections.

Sir, I shall just take a minute and a half more and I will have done. I am afraid that if this new clause is accepted you will be only forging fresh fetters on small parties, on individual candidates, and taking away the fundamental right of equal opportunity for all to contest elections in a healthy democracy. You cannot escape from that position. And I must tell the treasury benches, the serried ranks of the treasury benches—they are not serried now, they are depleted, perhaps that is a shadow of coming events, but let us not refer to that just now—I would tell them that what they are anxious about today is that they want to win the next elections by hook or by crook, more by crook than by hook.

Shri V. G. Deshpande: Who is the crook?

Shri Kamath: That is their admission. I tell them, they may win the elections, but they will kill the soul of democracy, of parliamentary democracy. They may gain a temporary advantage of winning the elections, but they will do permanent damage to the foundations of democracy, to the very fabric of democracy; and with the foundation, so weak and crumbling, the edifice of democracy cannot endure long.

I would tell them in the end that this particular provision, read with subsequent provisions, provisions like elimination of corrupt practices, removal of ballot papers—removal of ballot papers is at present in the corrupt practices list—it all points to one ignoble goal, and that is winning the elections by hook or by crook. I have only to say that they may win the elections but they will deal a death blow to the foundations of democracy and set India on the road to a very vicious plutocracy.

Shri H. N. Mukherjee (Calcutta North-East): I am very glad Mr. Speaker, that I have this opportunity of speaking just after Mr. Kamath has concluded. Because, I must confess that when Mr. Venkataraman placed his amendment and when I noticed that there was perhaps a remote chance of his including recognised as well as unrecognised party and other organisations within the ambit of his amendment, I felt somewhat attracted to his formulation. But luckily Mr. Kamath has presented the case with such cogency and fervour that I revert to my original position, which is this that we support the deletion of clause (4) which is sought to be added to section 77 of the original Act.

My reasons for it are not so particularly recondite as the legal arguments which were presented here in this House. But I shall place my case purely on the foundation of political ethics. When I was speaking in the course of the general discussion, I tried to point out that if we are going to have a worthwhile political atmosphere in the country, our elections must be conducted in such a fashion that we shall find really voluntary and honorary workers coming forward to work in the cause of one candidate or of another. I take it that the House is agreed, and certainly the Select Committee is of the opinion, that there should be a ceiling on expenditure. As far as we are concerned we want the ceiling to be at a lower figure than the figure which is at present allowed by the law; but we are not in a position to fight over that at the moment. But the principle of the ceiling itself implies that we wish to guarantee that extravagant sums are not permitted to be spent by particular interests or individuals in order to secure the election of particular candidates. In the Select Committee we have heard, and all over the country it is common knowledge, that in certain areas there are people who have come forward for election and spent five-figure sums for the sake of their success. This kind of thing is a scandal. It should not be tolerated in a democracy.

So, the idea of a ceiling, the principle that the expenditure over elections should be cut down to a minimum is adopted by the House. If clause (4) is retained, then there is certainly the possibility that the principle is going to be jeopardised and the desire of the

[Shri H. N. Mukherjee]

House and of the country would be negated. We cannot therefore permit any party to have a *carte blanche* to spend as much as it wishes for the sake of its candidates. It is good that Shri Kamath has pointed out certain instances as to how leaders of parties, representatives of parties, behaved on the eve of the elections and also other times, and it is good that we remind ourselves that members of Government, the Prime Minister included, have conducted themselves in a manner which certainly is not in conformity with the democratic interests of the people.

I know how the Prime Minister at the time of the general elections would go to particular constituencies where the fight, as far as the Congress was concerned, was stiff. I know he went to Malabar. He went by special train to Cannanore because there my leader Shri A. K. Gopalan was standing for election. I could mention instances of certain places in West Bengal which were singled out for the Prime Minister's visit and he went there. I do not know how he travelled. As far as I could find out from indications which appeared from time to time, I am sure he travelled at public expenses because he was Prime Minister of the country. This is a kind of thing of which the country should be told very openly that this is being done. It is not only that the Congress Party organisation's moneys are stupendous. They have mammoth funds at their disposal. In the general discussion we had referred to that sort of thing. I would repeat what I said then about the sugar scandal. We heard of the sugar magnates' deal with the Congress Party and we know why Shri Morarji Desai, the Treasurer of the Congress Party, is so keen about keeping Bombay out of Samyukta Maharashtra because that is the way his political bread is buttered. That is how he is going to get money from financial interests in that part of the country.

We should make sure that this kind of expenditure is not permitted at all, and therefore our idea should be to see to it that election accounts are properly presented, and there certainly the Select Committee has done a good job of work by pointing out that the election accounts expected of a candidate should not be so terrifically complicated that nobody in all honesty and conscientiousness can present such accounts. But, after we have simplified the procedure we should make sure that every single ascertainable item of expenditure has got to be shown and each political party functioning in this country must show the amount which it has spent for the sake of particular candidates. This is an obligation which is compulsory, and this is an obligation from which we should not like to have any political party trying to have its evasion. And that is why I am quite ready to support the idea of Shri Gadgil that these parties should place all their cards on the table, and on the eve of the elections they would tell the country how much money they have collected as election funds and how much money they have spent for the sake of elections and in regard to particular candidates. Surely ways and means can be discovered by which the allotment of the particular election expenses on particular candidates can be definitely specified. I feel, therefore, that from the point of view of political ethics which is of the very greatest importance, it is necessary that we delete clause (4).

As I said before, at one time I thought that on account of the difficulty of showing the really ascertainable amount of expenditure for particular candidates, Shri Venkataraman's amendment might be considered, but after Shri Kamath's speech I feel that the deletion of this clause is the only way out and therefore I very strongly suggest that this clause is deleted.

Shri Pataskar: We have spent, I think, more than two hours.

Dr. Krishnaswami: This is an important clause.

Mr. Speaker: I will call him next.

Shri R. N. S. Deo (Kalahandi-Bolangir): I have moved some amendments. I would like to say briefly a few words on my amendment No. 69. In my amendment I have suggested that at page 16 in line 27 the word "not" should be omitted. The effect of that would be that instead of exempting party expenditure from being included in the returns, it would make it mandatory that party expenditure incurred by a recognised party on a candidate shall also be deemed to be included in the expenditure shown by the candidate.

The second amendment I have suggested is to omit the word "recognised". It is admitted by everyone that there must be parties for the proper functioning of democracy. That nobody disputes. But by having this recognised party here we are making a discrimination between party and party. It was suggested by some hon. Member that even in the Principal Act the Explanation to section 125 already exempts party expenditure from accountability, but I should like to point out that the Explanation does not discriminate between party and party.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

The Explanation includes any association or orgainsation. If the amendment suggested by Dr. Krishnaswami is accepted, then, of course, the matter would be different. Otherwise, if you have the words "recognised party", it not only leaves the decision to recognise a party entirely to the discretion of the Election Commission, but it also amounts to discrimination.

I will not go into the constitutional and ethical aspects of this subject. I only want to draw your attention to the question how these words "recognised party" came into use. It was purely for the purpose of allotting symbols during the last elections that this question of recognised parties came in. In the first volume of the Report of the Election Commission on the first general elections at page 188 you will find the Commission has said :

> "In fact the word 'recognised' is misleading in a sense. Even a party which was not recognised for the reservation of a common symbol for all its candidates was, all the same, fully entitled to put up its candidates for every seat."

And in actual practice also that has happened in many cases. Though parties were not recognised for the allotment of a symbol, they put up candidates for a large number of seats. The only disadvanage which they had to undergo was that they could not print their circulars, posters, leaflets etc., using a common symbol for all their candidates, and therefore they had to use different symbols for every candidate set up. I submit that there is no good reason why there should be any such discrimination or why a common symbol should be refused whether it is a well established and organised party or whether it is a new party makes no difference. The symbol is meant only for facility of the party to print circulars, posters etc., and having a common symbol is not in any way going to vitiate the elections. Therefore, I do not understand why the question of recognition of parties at all has been brought in for the allocation of symbols.

It may be said that because the chosen symbols were limited in number, unless there was some such restriction put, all the symbols might have been used by different parties. But certainly, that difficulty could have been avoided by increasing the number of symbols.

My submission is that the question of recognised party, as you would notice from the admission of the Election Commission themselves, is meaningless. It was there originally purely for the purpose of allotment of symbols. Therefore, it is strange that it has been brought in sub-section (4) of proposed section 77. I would suggest that the word 'recognised' should be omitted.

It has been said that party expenses should not be brought into account. The effect on my amendment to do away with this provision by omitting the word 'not' would amount to making party expenses also part of the election expenses of the candidate. A distinction should be made in the case of expenditure incurred by a party for general propaganda of its ideals, programmes, ideology, manifesto etc. Then, there should be a distinction between the party propaganda at the general elections for the furtherance of the prospects of all the candidates of the party, and its propaganda in furtherance of the prospects of a particular candidate in a particular constituency. I would further suggest that a distinction ought to be made between party propaganda at a general election and at a bye-election. In a bye-election, the whole party machinery is concentrated for the success of a particular candidate.

Even if you say that general posters and circulars in the propagation of the party ideology or manifesto may be exempted, still I could give you an example of a recent bye-election where first posters were distributed asking the voters to vote for the Congress candidate with the symbol of the bullocks with the yoke on, but later on, when was not found sufficient enough, and the personality factor also came in, similar posters with letters in red, appealing to the voters to vote for the Yuvaraj of that particular zamindari were circulated. I submit that in such

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a case, there must be a distinction made between the two types of posters. One of them was clearly in the nature of an appeal to the voters to vote for a particular person, namely the Yuvaraj of that particular zamindari, and thus soliciting votes in his favour. My submission is that there should be a distinction made between these two types of party propaganda general propaganda carried on at the time of the general election in furtherance of the prospects of the candidates of the party generally, and propaganda carried on in a particular constituency for the furtherance of the prospects of a particular candidate, and also propaganda carried on at a bye-election.

Therefore, if at all you decide to exempt party expenses, it would amount to discrimination, and the very object of your putting a ceiling would be defeated. It is agreed generally that the purity of public life should be maintained, and the very idea of a ceiling is with the object of preventing money having any influence over these elections. That purpose will not be served if you exempt party expenses from accountability.

My submission is that by merely doing away with recognised party also, the object will not be achieved. We shall have to go a step further. As you will see from the Explanation that I have suggested in my amendment, even expenditure incurred by any individual, firm or company in furtherance of the candidates of a party should be brought in. To my mind, it is a much graver danger, rather a menace to democracy, if individuals, capitalists and financiers are also allowed to support party candidates. It is much more dangerous than even a few rich men utilising their money for elections.

Our experience in the last general elections, as well as the trends thereafter, have shown that gradually individuals will decrease, and there will be only very few who might care to stand as independents. But if capitalists and financiers utilise parties for their own purposes by contributing large sums of money and helping them during these elections, then there will be a very great danger. As you know, no person gives financial help or other kinds of help to a party, without only purpose, certainly, there is an obligation on the party which takes aid from these financiers and capitalists. Ultimately, we find, as we see in actual practice, that these governments, though they are democratic in name and form are tending to become mere agents of those financiers and capitalists.

I can cite one example in this connection. The Orient Paper Mill in Orissa is a company of Birlas, and it has been set up at Brajrajnagar. That company has got 99 years' lease of the bamboo forests of Orissa, or at least some parts of Orissa, at the ridiculously low royalty of four annas per hundred. At the elections naturally, the jeeps and vans and money of this company come to the aid of the Congress Party.

Then, there are these *kendu* leaves monopolies, about which I had spoken last year also. In spite of agitation against this, these monopolies continue in Orissa even today, because these monopolists had given a number of jeeps, men and money in aid of the Congress candidates at the different bye-elections and elections.

What is more surprising is this. This Orient Mills was polluting the waters of the river Ib and the Ib was polluting the waters of the Mahanadi when the flow was low in the summer. People of the lower regions of the Ib and Mahanadi cannot drink the water, nor even bathe in it. They agitated. Ultimately, they went to court and got a decree. But what happened? Subsequently, it is open knowledge that at the dictation of the company—a draft was sent by the company—a law was passed in the Orissa Assembly ousting the court's jurisdiction from these matters. The law was called the River Pollution Bill; it was not actually prevention of river pollution; it was rather to perpetuate river pollution. This sort of thing is done. What is the effect of all this on the public mind? The effect is that gradually the administration is becoming the agent of big money. Therefore, it is very necessary to prevent this sort of thing; not only the expenditure incurred by the party but also by the financiers, capitalists, and others in support of the party candidates should be brought in. That is the purpose of my amendment.

Shri Pataskar: It is really unfortunate that the impending elections have led to the introduction in the debate of a controversy like this, a matter which ought not to have been introduced. I do feel that if properly this clause was considered two years back, there would not have been this sort of, if I may call it, created opposition to a matter which, to my mind, did not deserve all the bad epithets that were showered upon it.

As I made clear in the beginning, in all countries where parliamentary democracy of this type exists, parliamentary election expenses incurred generally for the cause they represent are not included, and could not possibly be included, in the expenditure incurred by an individual candidate. I made it perfectly clear that if a party were to incur expenditure for the purpose of the election of a particular candidate, that was a different matter altogether.

However, this is a matter which has arisen out of the consideration which was bestowed upon it in the Select Committee by all groups of people under your able Chairmanship. There is nothing absolutely new in the phraseology, but there may be a little difference. I would like to draw the attention of hon. Members to the fact that originally in the explanation to section 125, it was mentioned :

> "Any such expenses as aforesaid incurred or authorised by any institution or organisation for the furtherance of the prospects of the election of a candidate supported by such institution or organisation shall not be deemed to be expenses incurred or authorised within the meaning of this clause".

Shri Kamath : Retain that.

Shri Pataskar : I will come to that. Then we dropped that. With respect to filing of these returns not only hon. Members of one view, but all hon. Members seemed to agree. It probably arose out of realisation of the truth and the facts of the case that the manner of submitting returns was so complicated, so unreal and so divorced from the real facts, which every candidate, whether he was of the Congress or of the Socialist party or any other party, had to deal with. So the Select Committee thought that they must deal with the problem in the best manner possible. I know that it is not always possible in human affairs to have an ideal state of things, but I must say that the Select Committee did make an effort, and in the course of that effort, all that complicated return was given up.

Then we considered the question whether we should not also do away with accounts themselves. There were people who said, 'Why do want to force us to keep accounts which are not true?' This was very seriously considered, not merely by Congressmen, but by everybody, Ultimately, as I said day before yesterday, it was thought that if expenses without any limit were to be allowed, then probably it would not be desirable. If you have to place some limit on the expenditure to be incurred by a candidate, naturally the only method by which it could be done is to know ultimately whether it is so or not by asking the candidate to keep some accounts. You may make it as simple as you can at same time, it must be accounts. Otherwise, what is there to show whether he has exceeded it or not? It was with that idea in view that we in the Select Committee started making a provision in this connection. Therefore, it should be looked at from that point of view this was the background with which this clause was dealt with in the Select Committee.

In the proposed section 77(1), we say :

> "Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive".

As has been referred to in the speeches of other hon. Members, under the law as it existed then, it was doubtful as to from what time expenses incurred in connection with an election had to be shown. There was the famous Kappadi case. Therefore, in section 77, we first of all said that it should be only from the date of notification. Of course, we cannot say that there was no candidate before the notification. In anticipation, parties may want to do many things ; this applies not to the Congress Party alone but to all political parties. Therefore, looking to the facts of the case, this was the suggestion made, that it should be between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive. Naturally, that is what we can compel a particular candidate to do, if really, as was suggested, we had to change the original system in such a way that people should not be forced to do things against their conscience. It was from that point of view that this change was

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made in section 77(1), that he should keep the accounts of election expenses incurred or authorised by him or by his election agent.

Shri N. C. Chatterjee himself, I think in reply to the question put by Shri Venkataraman, said that it was perfectly clear here as to what accounts he was asked to keep with respect to whatever expenses were incurred or authorised by him or by his election agent.

Having started with that decision, the minimum they thought should be done at that stage—there was no question of political parties; that was a different matter—while simplifying the procedure about the returns and the accounts, the Select Committee thought that if at all we wanted to see that people were not forced to do something, which everybody complained was unreal, untrue and what not—so many epithets were used—they should make a provision that no complicated return need be kept. Therefore, they made this decision, that no complicated return is to be filed.

The question may be asked: what about sub-section (4)? I will request hon. Members to consider dispassionately what the Select Committee did. They thought that this was the simple way to do it.

[MR. SPEAKER *in the Chair*]

Then, the Committee went over to sub-section (2). It thought what should be the particulars of this account. Naturally, it is difficult, when we are legislating to imagine all sorts of things. Therefore, it was thought that it should be left to the rules. Then, sub-section (3) says that the total expenditure shall not exceed such amount as may be prescribed. I believe nobody has ever raised any objection to this. Let us now see, sub-section (4). It says:

> "The said expenditure shall not be deemed to include any expenditure incurred by a recognised party organisation for furthering the prospects of the election of candidates supported by it."

This is being opposed by all the parties in the Opposition. I might say that this was put in, not at the instance of only party but it was thought that when we are deleting the provisions about illegal practice etc., under 126, it should be made clear. This does not add to what is contained in 77(1). (*Interruption*). I would not like to be interrupted. I have been hearing them with patience and let them allow me to proceed. After this, if anybody wants let him ask me any question. I will explain as it is my duty to do so. But, I do not want to be interrupted; it would neither be advantageous to the opposition nor to me.

What is contained in sub-section (4) is more or less with a view to clearing any doubts which may arise particularly in view of the way in which we proceeded to deal with this question in the Select Committee. Therefore, it was said that such expenditure shall not be deemed to include any expenditure incurred by a recognised party or organisation etc. I will come later on to recognised party. It does not mean that a recognised party can incur expenditture for anything. Take any party. It puts up some candidates. It carries on general propaganda in favour of the candidates which it may have set up. Take any parliamentary constituency. It consists of, probably, one member of that party for the parliamentary constituency and some other candidates who have been set up for seats in the Legislative Assembly. What does this subsection lay down? It says: any expenditure incurred in furtherance of the prospects of election of the candidates set up by it. As I said before, if a candidate receives Rs. 2,000 from the party for his election, it will have to be shown because it is just like his borrowing from somebody else.

In the beginning, when the motion to refer the Bill to a Select Committee was made, there was a complaint that when the party spends some money on 4 or 5 candidates, one or two for the parliamentary constituency and 3 or 4 for the Legislative Assembly constituencies, it is difficult to ascertain what portion of that amount was spent separately on a particular candidate. It was said that we would be submitting false returns. Surely, this money is spent by the party not in support of a particular candidate but in support of the candidates it sets up, for the propagation of the cause which the party represents and for the policy it advocates. Hereafter when we progress with parliamentary democracy, it will possibly be more and more on party basis that elections will be contested. That is how parliamentary system has to develop and there is doubt about it. This is the origin of sub-section (4) of section 77 in this Bill—clause 41. It does not add to anything contained in sub-section

(1). It tries to make clear the interpretation put upon it. My hon. friend Shri Chatterjee agreed that it is clear. In view of that I was really surprised that on account of the impending elections, sub-section (4) should have created such a storm in the House. (*An Hon Member*: In a teacup.) It is not something which the Congress party wants to impose. It is said that they have collected fabulous funds. There are some stories going current. As I said yesterday, we should leave all these. We should look at it from the point of view that it is applicable to all parties and not from this angle or that angle. How can there be a law which would serve only one party and not the others? I do realise the position of individuals which was pointed out by Shri More. I sympathise with them in their very difficult position. Having accepted parliamentary democracy there is no way out of it. Mere intelligence does not count nowadays.

Shri V. G. Deshpande: It does not count at all.

Shri Pataskar: For that they themselves are responsible. There may be a time when their intelligency might be utilised if they join the right parties. There may be some individuals who want to cling to something which is not agreeable to the people. (*Interruption*). I am not going to discuss these things. So far as this question is concerned, probably a great deal of the storm has been created due to the impending general elections and a good deal is imported into it which is not there.

I was surprised that having said all this there has been a constitutional matter also which has been raised. I will bring to your notice the constitutional position of legislation of this kind. In the Constitution itself you find a chapter on Elections, Part XV. The first article in that Part, article 324 reads:

> "The superintendence, direction and control of the preparation of the electoral rolls, for and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States shall be vested in a Commission...."

What are our powers?

We have got article 327 with regard to our powers. I will try to avoid saying anything which, at any time can be interpreted to be something in the way of curtailment of the powers of this House. I equally appreciate with the other members the realities of the situation which have to be recognised by everyone concerned, whether sitting on these benches or on those benches. Article 327 clearly lays down:

> "Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to...."

Our power, therefore, to legislate under article 327 is subject to the provisions of the Constitution, meaning thereby also article 324. It must be kept in view by all hon. Members that although article 327 gives this power to us, it is all subject to the other provision by which for very good reasons we should have the Election Commission as an independent authority, as an independent body, free from the fortunes of political parties, which may change from time to time. The powers of this House may be guided by those who may have got the majority here. So, it is rightly put in the Constitution that in the matter of elections and conduct of elections, the powers of the House are subject to the other provisions in the Constitution. This has been very rightly made, and that is the basis on which we have tried to maintain the purity of the elections.

I was surprised that an eminent lawyer like Shri Chatterjee should have failed to know the distinction between the Election Commission and a public officer appointed by the Government. He quoted some ruling also. So far as that ruling is concerned, there is no question of delegation of power. You may remember that we are trying to legislate subject to the creation of an authority which has been given certain overriding powers with respect to the conduct of elections in order that they may be kept free and fair, not only for this party or that party but for all. Just as the Election Commissioner is liable to be influenced by the party in power, he is likely to be threatened also or tried to be induced to do some wrong action by the other side. All that should be avoided. If we really want to keep to the original idea with which we started, that is, to keep these elections free and fair, that

[Shri Pataskar]

is not a wrong thing. In that regard, with due respect I would say that my hon. friend, Shri Chatterjee, who is not here just now, quoted a case. We are also in the habit of quoting cases only. But the question is that that case related to some delegation of power to some officers dealing with the trial of criminal cases. Even there, the decision is not uniform. There is another Saurashtra case in which the same learned Judges of the Supreme Court have taken a contrary view. It may be that article 14 of the Constitution is the subject matter of interpretation so many times by so many courts. Naturally in a matter in which the facts of the case vary, the ultimate judgment also varies. I was surprised to find that probably my hon. friend, more experienced in court work than in parliamentary work, tried to argue as if it was a case being argued before a judge, and he quoted page number, paragraph number and made reference to this remark and that remark. I believe that this matter ought to have been argued not on the basis of what one learned Judge said. All learned judges are bound to say something on the matters they have to deal with, but this is entirely a different question altogether. How can that ruling be made applicable here—ruling with respect to an officer being given power by Government? We put some government in power; that government finds itself in power. Naturally that delegation is altogether of a different nature. Here, the powers of the Election Commission are probably kept there in the interest of the nation itself, free from interference by any party. I would make it clear not only today but I did so on the occasion when this Bill was discussed in the other House when Pandit Kunzru raised a point, are you going to do anything here by which you are going to tamper with the constitutional authority of the Election Commission, and I said "No, we cannot do it and we will not do it." Therefore, in this matter all these arguments are of very little use.

The Explanation says that the expression "recognised party organisation" means a party organisation which has been recognised by the Election Commission in this behalf. As we have got clause (4), it was thought that there should be the Explanation also in order to explain what is meant by "recognised party", and, therefore, it has been put in here. After having considered this matter, I think that this was never intended to be in the interest of the Congress Party or the Communist Party or the Socialist Party or any other party that might legitimately crop up.

Shri Asoka Mehta (Bhandara): How legitimately?

Shri Pataskar: Whatever it may be, that was not the desire. The desire was that the particular propaganda made by the parties, whichever party it may be, should be avoided. That is the history of this clause, and it was not put in from any party motive. I did not find even one-tenth of the heat which I find in the House now, at the time when this was discussed in the Select Committee. Now that the elections are very near, probably many things might appear now which did not appear then.

I would here and now say that now that this has been made more or less a matter not of dispassionate consideration but looked at from some party advantage, the Congress Party or the Congress Government had never intended and never intend that they should have any privileges or any such thing more than what the other parties have. I find that practically all the opposition parties are combined against it and, therefore, I am prepared to agree that clause (4) may be deleted—the whole of it and the explanation.

Shri S. S. More: I want to make it clear that in my Minute of Dissent I referred to this.

Shri Dabhi: Regarding clause (4) of proposed section 77, I want to ask a question. If there is only one candidate....

Mr. Speaker: The whole of clause (4) is going away; that is what the hon. Minister has said.

Now, what are the amendments to be put to vote?

Shri Kamath: My amendment is No. 129.

An Hon. Member: It is the same as 159.

Shri Kamath: I had given in my amendment "*omit* lines 26 to 32" but it has probably been changed by the office into 27 to 33.

Shri Pataskar: It ought to be "*omit* lines 26 to 32" and not "*omit* lines 27 to 33".

Mr. Speaker: The question is:

"Page 16—

omit lines 26 to 32"

The motion was adopted.

Mr. Speaker: That means that clause (4) of proposed section 77 together with the Explanation will be deleted.

2 P.M.

Shri R. D. Misra: (Bulandshahr Distt.): There is my amendment No. 210.

Mr. Speaker: Is the Minister accepting it?

Shri Pataskar: No, Sir.

Mr. Speaker: I shall put all the amendments to the vote of the House.

The question is:

Page 16—

for clause 41, *substitute*:

"41. *Omission of sections* 76, 77 *and* 78.—Sections 76, 77 and 78 of the principal Act shall be omitted."

The motion was negatived.

Mr. Speaker: The question is:

Page 16—

for lines 27 to 40, *substitute*:

"78. Every candidate whose election is challenged, shall, within seven days of the receipt of notice of the election petition challenging his election, lodge with the Returning Officer an occount of his election expenses, which shall be a true copy of the account kept by him under section 77, and it shall be open to the petitioner, within 10 days of the filing of the return to file his objections, if any, to the accuracy of the returns."

The motion was negatived.

Mr. Speaker: The question is:

Page 16, line 27—

omit "not"

The motion was negatived.

Mr. Speaker: The question is:

Page 16—

(i) line 27—

omit "not".

(ii) line 28—

omit "recognised"; and

(iii) *for* lines 31 to 33 *substitute*:

"*Explanation I.*—Where a party incurs any expenditure for furthering the prospects of more than one candidate in a House of the People constituency, the proportionate share debitable to each candidate of the party for the House of the People and for the Legislative Assembly, shall be calculated in accordance with the principles and procedure as may be prescribed by rules.

Explanation II.—Expenditure incurred directly or indirectly by individuals, firms or companies in aid or furtherance of the prospects of the party candidates, shall also be deemed to be expenses incurred by the party".

The motion was negatived.

Mr. Speaker: The question is:

Page 16, line 28—

omit "recognised"

The motion was negatived.

Mr. Speaker: The question is:

Page 16—

omit lines 31 to 33.

The motion was negatived.

Mr. Speaker: The question is:

Page 16—

after line 33, *insert*:

"77A. (1) All the recognised parties shall keep a separate and correct account of all expenditure in connection with the election incurred or authorised by them between the date of publication of the notification calling the elections and the declaration of the results thereof, both dates inclusive.

(2) The accounts shall contain such particulars as may be prescribed.

(3) The expenditure would be divided by the total number of candidates set up by the party and the amount so arrived at would be added to the total expenditure incurred by each candidate, and the amount after this addition would be treated as the total expenditure incurred by the candidate of a recognised party."

The motion was negatived.

Mr. Speaker: The question is:

Page 16—

for lines 34 to 40, *substitute*:

"78. *Lodging of account with the returning officer.*—(1) Any person who intends to present an election petition under this Act shall give notice of his intention to challenge the election within ten days from the date of the declaration of the result of election and shall deposit with the returning officer a sum of rupees two hundred in the case of an election to the House of the People and rupees one hundred in the case of an election to the Legislative Assembly of a State.

(2) Upon receipt of notice under sub-section (1) the returning officer shall immediately call upon every contesting candidate to lodge with the returning officer either in person or by a person authorised in writing by him in this behalf an account of his election expenses, which shall be a true copy of the account kept by him or by his election agent under section 77 within thirty days from the date of the declaration of the result of the election.

(3) If a person giving notice under sub-section (1) of this section does not present an election petition to the Election Commission under section 81 of this Act, the amount deposited by him shall be paid equally to the persons who lodged the accounts of election expenses with the returning officer after three months of the expiration of the period of limitation prescribed for the presentation of election petition under this Act.

(4) If an election petition is presented by the person referred to in sub-section (1) of this section to the Election Commission, the amount deposited by him with the returning officer under sub-section (1) shall be returned to him on presentation of a certificate from the Election Commission that he has filed an election petition challenging the election.

(5) Every contesting candidate at an election shall, on being called upon by the returning officer under this section, within thirty days from the date of election of the returned candidate or if there are more than one returned candidate at the election, and the dates of their election are different, the later of those two dates, lodge with the returning officer either in person or by a person authorised by him in this behalf an account of his election expenses which shall be a true copy of the account kept by him or by his election agent under section 77."

The motion was negatived.

Mr. Speaker: The question is:

In the amendment proposed by Shri Venkataraman, printed as No. 229 in list No. 17—

(i) *for* "a recognised party organisation" *substitute* "a party or ganisation or association"; and

(ii) *add* at the end "and not for furthering the prospects of any particular candidate".

The motion was negatived.

Mr. Speaker: The question is:

Page 16, line 18—

omit "and correct"

The motion was negatived.

Mr. Speaker: The question is:

Page 16—

after line 33 *add*:

"Provided that no expenses shall be claimed to be included in this section which are incurred with the authority or knowledge of the candidate or his election agent."

The motion was negatived.

Mr. Speaker: The question is:

Page 16—

for lines 27 to 30, *substitute*:

"(4) The said expenditure shall not be deemed to include any expenditure incurred by a recognised party organisation on election propaganda and publicity (such as holding public meetings and issuing circulars, pamphlets, posters and advertisements) for furthering generally the prospects of the election of candidates supported by it."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 41, as amended, stand part of the Bill."

The motion was adopted.

Clause 41, *as amended, was added to the Bill.*

Mr. Speaker: The question is:

"That clause 42 stand part of the Bill."

The motion was adopted.

Clause 42 *was added to the Bill.*

Mr. Speaker: I shall put clause 47 to vote of the House

Pandit Thakur Das Bhargava: I press my amendment No. 84 to this clause.

Mr. Speaker: The question is:

Page 18—

after line 16, *add*:

"(2) In case the petition is not dismissed under the provision of section 85, the Election Commission shall at once issue a notice to the candidate whose election has been challenged or any other candidate for whom declaration is sought that he may be declared elected under the provisions of the preceding article calling upon him or them to file true copy of the accounts of election-expenses required to be kept under section 77 of the Act.

(3) The respondent or respondents as the case may be shall comply with such notice as soon as possible and in no case later than seven days of the service of such notice provided that if such day happens to be a public holiday the compliance may be made on the opening day after such holiday.

(4) In case of failure of compliance with such notice within the prescribed period the election of the returned candidate shall be declared to be void by the Election Commission and the petitioner or such other candidate in respect of whom declaration was sought that he may be declared to be elected shall be debarred from claiming such declaration.

(5) On such accounts being filed within the prescribed period the Election Commission shall inform the petitioner that the accounts have been filed to enable the petitioner to inspect them the file such fresh particulars of objection in conformity with the provisions of section 83(2) as he thinks fit within a period of ten days from the receipt of information given by the Election Commission and such particulars shall be treated as part of the petition.

(6) In case the petitioner prays for a declaration that he may himself be declared to be duly elected, he shall file along with the petition a true copy of his own accounts of the election-expenses required to be kept under section 77 of the Act. If he fails to do so, he shall be debarred from claiming as provided under section 84, that he may be declared to be duly elected."

The motion was negatived.

Mr. Speaker: The question is:

Page 18—

for lines 15 and 16, *substitute*:

"Provided that the Election Commission may, after giving the petitioner an opportunity of being heard, condone such non-compliance."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 47 stand part of the Bill."

The motion was adopted.

Clause 47 *was added to the Bill.*

Clauses 43 to 46 and 48 to 64

Mr. Speaker: The House will now take up clauses 43 to 46 and 48 to 64, both inclusive. We start at 2 P.M. and conclude at 6 P.M. We have four hours. Clause 43 to 46 and 48 to 64 shall have one hour. Clause 65 shall have two hours and clauses 66 to 83 shall have one hour. In all, we have four hours. The hon. Members who want to move amendments to this group of clauses may do so.

Shri K. L. More (Kolhapur *cum* Satara—Reserved—Sch. Castes): I beg to move:

(i) Page 19—

after line 3 *add*:

"Provided further that if the Election Commission considers it expedient so to do, it may appoint

[Shri K. L. More]

a person who has been a judge of a High Court as the member of a Tribunal."

(ii) Page 23, lines 27 and 28—

for "the original decree" *substitute:*

"an original decree".

Shri Kamath: I beg to move:

(i) Page 18—

omit lines 24 to 34.

(ii) Page 18, line 26—

omit "(other than Jammu and Kashmir)".

(iii) Page 18—

for lines 35 to 37, *substitute:*

"(3) Every tribunal shall consist of a single member who is or has been a judge of a High Court".

(iv) Page 19—

after line 3 *add:*

"Provided further that where the petition calls in question the election of a Minister, Deputy Minister or Parliamentary Secretary, it shall be tried by a tribunal consisting of a judge who neither is, nor has been, a judicial officer in the State where the Minister or Deputy Minister or Parliamentary Secretary hold office."

(v) Page 22, line 6—

add at the end "or of any other Act or rules relating to the election, or by any mistake in the use of any prescribed form."

(vi) Page 23—

after line 5, *add:*

"Provided that if the person affected by the order intimates his intention of filing an appeal to the High Court, the Tribunal shall, upon his executing a bond for such reasonable amount as the Tribunal may fix, stay operation of its order till after the period of limitation provided by sub-section (3) of section 116A for filing an appeal to the High Court has expired."

(vii) Page 23—

after line 5, *add:*

"Provided that it shall not so take effect if any of the parties to the petition give immediate notice of filing appeal under section 116A.

(viii) Page 24—

omit lines 10 to 13.

Shri K. K. Basu: I beg to move:

(i) Page 18, line 35—

for "a single member" *substitute:*

"not less than two members"

(ii) Page 18—

for lines 24 to 30, *substitute:*

"(2) for the purpose of constituting such Tribunals, the Election Commission shall transmit the petition to the High Court having jurisdiction in the State where election was held. Such High Court shall treat such petition in its original jurisdiction".

(iii) Page 18—

for lines 35 to 37, *substitute:*

"(3) Every tribunal shall consist of a single member".

(iv) Page 19—

for lines 4 to 11, *substitute*:

"(4) The Supreme Court in consultation with Election Commission shall frame such rules or procedure for conduct of the Election Tribunal petition".

Shri Mulchand Dube (Farrukhabad Distt.—North): I beg to move:

(i) Page 17—

after line 35, *insert:*

"(bb) shall contain a list of documents on which the petitioner propose to rely in proof of his case and a list of witnesses with a full description of each witness giving his parentage, occupation and place of residence;"

(ii) Page 19—

for lines 24 to 26, *substitute*:

'(b) in sub-section (2) for the existing provisos, the following provisos shall be substituted;

"Provided that the Tribunal shall refuse to examine a witness not included in the list contained in the petition except on good or sufficient cause being shown for the non-inclusion in the list:

Provided further that the Tribunal shall have in every case the discretion to refuse for reasons to be recorded in writing to examine any witness or witnesses if it is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings." '

Shri Venkataraman: I beg to move:

Page 19, line 14—

after "stage" *insert* "after notice to parties".

Shri M. L. Agarwal (Pilibhit Distt. *cum* Barielly Distt.—East): I beg to move:

(i) Page 21, line 29—

before "or" *insert* "which has materially affected the result of the election"

(ii) Page 23—

for clause 60, *substitute:*

"60 *Substitution of new sections for sections* 108, 109, 110 *and* 111.—For sections 108 to 111 of the principal Act the following sections shall be substituted:

'108. An election petition may be withdrawn by the sole petitioner or by all the petitioners, if there are more than one petitioner, by an application signed and verified as prescribed by the sole petitioner or by all the petitioners as the case may be.

109. An application for withdrawal before the appointment of the Tribunal shall be made to the Election Commission and thereafter to the Tribunal.

110. The Election Commission or the Tribunal as the case may be, shall grant the application for withdrawal subject to such terms about costs as the Election Commission or the Tribunal may think fit.

111. The order allowing a petition to be withdrawn shall be published in the Official Gazette'."

(iii) Page 23—

after line 16, *insert:*

"60A. *Omission of section* 115.—section 115 of the principal Act shall be omitted."

(iv) Page 23—

after line 16, *insert:*

"60A. *Amendment of section* 116.—In section 116 of the principal Act, *for* the words "the Tribunal shall cause notice of such event to be published in the official Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Tribunal may think fit" the words "the Tribunal shall hear and decide the petition *ex-parte*" shall be substituted."

(v) 24—

after line 13, *insert:*

'61A. *Substitution of new section for section* 117.—For section 117 of the principal Act, the following section shall be substituted;

"117. *Deposit of security.*—No petition shall be entertained unless the petitioner encloses with his petition a Government treasury receipt showing that a deposit of one thousand rupees has been made by him in a Government treasury or in the Reserve Bank of India in favour of the Secretary to the Election Commission as security for the costs of the petition."

(iv) Page 24—

for lines 20 to 25 *substitute:*

"119A. No appeal under Chapter IVA shall be entertained unless the person who prefers it encloses with the memorandum of appeal a Government treasury receipt showing that a deposit of five hundred rupees has been made by him either in a Government treasury or in the Reserve Bank of India in favour of the Secretary to the Election Commission as security for the costs of the appeal."

Shri Seshagiri Rao: I beg to move:

(i) Page 19—

for lines 4 to 9, *substitute:*

"(4) If any vacancy occurs in any Tribunal the Election Commission shall as soon as practicable fill the vacancy in accordance with the foregoing provisions of this section, and thereupon the trial of the petition shall be continued as if he had

[Shri Seshagiri]

been on the Tribunal from the beginning."

(ii) Page 21—

omit lines 28 and 29.

(iii) Page 21, line 34—

add at the end "improper rejection of any nomination".

Mr. Speaker: All these amendments are before the House.

Shri K. K. Basu: I have moved my amendment relating to the composition of the tribunals. The proposed section 86 contained in clause 48 says that each tribunal shall consist of a single member selected by the Election Commission from any of the lists maintained by it under sub-section (2). Sub-section says:

> "For the purpose of constituting such Tribunals, the Election Commission shall obtain from the High Court of each State....a list of persons who are district judges in the State and are in the opinion of the High Court fit to be appointed as members of Election Tribunals and shall maintain the list by making such alterations therein as the High Court, may, from time to time, direct."

[MR. DEPUTY-SPEAKER *in the Chair*]

Then an explanation is given. The Election Commission shall get a panel of persons and the tribunal will consist of a single member. The Election Commission will nominate a person out of that panel. Of course it is an independent authority constituted under the Constitution and we may have to give some discretionary power. The Election Commissioner is constitutionally independent of the executive. Even then, he is an individual person who has to look after the working of the election machinery and the functioning of the entire machinery including the composition of the tribunals. He has to act on the advice and the guidance of the Chief Electoral Officer of the State or the person under him. Who are the Chief Electoral Officers? They are not independent persons; they are not full-time officers of the Election Commission. In most cases, he is under the control of the executive of the State, partly working under the guidance and supervision of the Election Commission. Therefore, I feel, whenever such discretion is given to the Election Commissioner to transmit a particular petition to an Election Tribunal, it is not a good practice to say that the Tribunal should be composed of a single person. We should see that persons who seek justice before a Tribunal must have a feeling that it will be done properly. We know that District Judges theoretically are under the superintendence of the High Court under the present system, but they are largely guided and to some extent influenced by the executive. If an amendment had been proposed in such a way that a petition would be referred to the High Court of the concerned State and there may be an Election Bench for the conduct of the work of an Election Tribunal, then I could have understood it, because in that case there would have been no scope for the misuse of the discretion or mis-application of the power—I may be permitted, Sir, to use the word 'misuse'—as is feared in the present case. It is not humanly possible for the Election Commissioner to really weigh and understand the quality or the merit of individual persons. He has to be largely guided by the executive.

I had first tabled an amendment No. 192, but today morning I have sent in another amendment which says that this Election Tribunal should be the High Court of the particular State and it should be conducted in its original jurisdiction. I have suggested this because, I know from the experience of the last Election Tribunal, that in some of the cases the Election Commissioner had no knowledge of the persons selected as members of the Tribunal. In one case a member was somewhat related or he had some interest in a particular person. The Election Commissioner himself, when later on the thing was found out, said that it was difficult for him to change the man. Then he utilised some other influences and ultimately prevailed upon the particular person to resign from the membership of the Tribunal. The Election Commissioner has certainly to act on the advice of the Chief Electoral Officer, who is usually an officer of the particular State. Therefore, in spite of the Election Commissioner's independent authority, when he has to use a discretion, it is humanly impossible for him to judge and know in details the merits and qualities of an individual person. Therefore, he is likely to be guided by the Chief Electoral Officer, who, even today, is not an independent authority, but an officer of the State concerned.

Then, as I said, District Judges, though they may be theoretically under the superintendence of the High Court, are largely influenced by the executive, because the Judges have to think in terms of future appointments. Therefore, their aim is to obtain the goodwill and support of the executive. Under such circumstances I would urge upon the Government to accept my proposition. We are often told it is very difficult to overburden the High Court Judges with such work, because they are already over-worked. Under such circumstances, if you want to restrict the Tribunal to District Judges then I would suggest that the number of members in the Tribunal should not be less than two. My idea is that two persons cannot be of the same view and it is unlikely that both of them will be influenced by the executive. Therefore, I again stress, if you want to restrict the Tribunal to the District Judges, the number should not be less than two. If you can make it three, I do not mind.

One of the arguments advanced in favour of decreasing the number of members of the Tribunal is that it is very difficult to find persons. But I feel, after the simplification of the law and the rules made thereunder, it is very unlikely that we will have so many election petitions in future. I would, therefore, repeat that if you want to restrict the membership of the Tribunal to the District Judges only, then the number should not be less than two.

I have given an amendment this morning saying that the Election Commissioner after accepting a petition should transmit that to the High Court of the State in which the election was held and the High Court in its original jurisdiction should conduct the proceedings. It should be entirely left to the judiciary to determine in which way the Tribunal should be composed, in which way the election petition is heard and judged.

With regard to the procedure also I have suggested an amendment. I have suggested that the Supreme Court in consultation with the Election Commissioner should lay down certain rules of procedure for the conduct of the Tribunal. I urge upon the hon. Minister to consider this aspect also.

I am sure the House will agree with me that we should make this parliamentary democracy fool-proof and really acceptable to the people. The people must have confidence even in the Tribunal that may be constituted to consider petitions challenging an election. The Tribunal should be such over which the people will have the greatest confidence. Under the Constitution we have High Courts and Supreme Court. Even today people have a great amount of confidence on these organisations. Therefore, I would urge upon the Minister to accept my amendment suggesting that these cases should be referred to the High Court of the State where the particular election was held. I hope the hon. Minister will be pleased to accept it and the House will support it.

Shri M. L. Agrawal: Sir, my first amendment is amendment No. 25 to clause 54. You will find that in this clause, there are several sub-clauses under section 100(1). I refer to sub-clause (c). In that it is said:

> "Subject to the provisions of sub-section (2), if the Tribunal is of opinion that any nomination has been improperly rejected;"

> then "the Tribunal shall declare the election of the returned candidate to be void."

My amendment to this sub-clause is that it should not be made the thumb rule that everywhere when the nomination paper has been improperly rejected and election should be declared void, because there are cases in which it may bring about hardship to the returned candidate. I do not want to waste much time of the House, but I would just illustrate my proposition by giving an example. Supposing there are two parties in the field, the Communist Party and the Congress, and they put up two candidates each, and the nomination papers of both the candidates of the Communist Party are accepted, while the nomination paper of one of the Congress candidates, who is a real candidate, is accepted and that of the other candidate is rejected—Shri Chatterjee has given examples where people sometimes purposely file wrong nomination papers with a view that it may be rejected—in that case, if one of the two Communist candidates drops out, then there is a straight fight between the Congress candidate and the candidate of the Communist Party. It is often seen that parties put up one dummy candidate so that he may be a standby candidate, in case for some reason the nomination paper of the real candidate is invalidated. Now, if in the example

[Shri M. L. Agrawal]

I have cited, the Congress candidate loses in the straight fight, would it be any reason in the circumstances, only because the nomination paper of the dummy candidate has been rejected, that that man can go and challenge the election of the Communist candidate? This would work hardship. It may be said, as it has been said already, that the Election Commission should not recognise dummy candidates. But these things can be settled by evidence as so many other things are settled. If the Tribunal comes to a decision on evidence given in the case that the candidate whose nomination paper was rejected, was not an intended or real candidate, there is no reason why the Communist candidate, who has been returned certainly after having fought the election, should be asked to vacate his seat and face the constituency again. Therefore, I would submit, that in this clause the same test should be applied,—the test that we had applied in subclause (d) which says:

> "that the result of the election, in so far as it concerns a returned candidate, has been materially affected—"

Unless the result is materially affected, which can be seen by the evidence, no election should be set aside simply because there has been an improper rejection of the nomination paper. That is about amendment No. 25.

My amendment No. 26 is about clause 60, and it deals with sections 108 to 114 of the principal Act. These sections occur under chapter IV which deals with withdrawal and abatement of election petitions. In these sections it has been laid down that when a sole petitioner or if there are more than one petitioner applying for withdrawal of the application, then it may or may not be withdrawn. If it is withdrawn, the notification has to be made and some other persons have to be invited to take the place of the petitioner or of the respondent. These provisions are very harassing to the returned candidate. Why should the law make it obligatory for other persons to come in to take the place of the petitioner or the respondent? When they had a chance they did not think it proper or necessary to join. The verdict of the electorate should not be challenged easily and should not be made a cheap affair for anybody to challenge the election. Within the time allotted, the man makes a petition and for some reasons he withdraws it. So, why should the law force the public to come and take his place and harass the respondent further? So, in this amendment, I wanted to put in a simple provision that when a man wants to withdraw a petition he may be allowed to do so. When the respondent dies, the petition may be decided *ex parte*. There should be no necessity for any artificial respondent to be created and prolong the agony of the petitioner for nothing. Also we need not hang the sword of Democles over the successful candidate by these provisions. I have every hope that the hon. Minister, who stands for the simplification of the law would see the point behind this amendment. Some of the petitioners file petitions for blackmailing the candidate and put the returned candidate to much harassment, and so they should not be encouraged by the present provisions of this chapter. They should be simplified in the way I have indicated.

My amendment Nos. 27 and 28 also refer to sections 115 and 116 of the principal Act under the same chapter, that is chapter IV. I want to omit section 115 which reads as follows:

> "After a notice of the abatement of an election petition is published under section 113 or section 114, any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions of section 117 as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit".

I think this section is unnecessary and should be omitted.

Then there is section 116. It is laid down in section 116 as follows:

> "If before the conclusion of the trial of an election petition, the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondents dies or gives such notice and there is no other respondent who is opposing the petition, the Tribunal shall cause notice of such event to be published in the Official Gazettee, and thereupon any person who might have been a petitioner may, within fourteen days of such

> publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Tribunal may think fit".

I think this search for a new respondent is quite unnecessary and harassing to the petitioner. Therefore, I say that in place of the words "The Tribunal shall cause notice of such event...." etc., the words "the Tribunal shall hear and decide the petition *ex parte*" shall be substituted. That makes the law simple and it does away with the necessity of searching for a new petitioner and a new respondent. This would be the effect of my amendment Nos. 25 to 28.

I have given amendment No. 30 just to add a new clause 61A, which seeks to substitute the present section 117 of the Act.

By my amendment No. 31, which is only a verbal amendment, I have tried to improve the language of section 119A. Section 119A, as appearing under clause 63 of the Bill, reads as follows :

> "Every person who prefers an appeal under Chapter IVA shall enclose with the memorandum of appeal a Government treasury receipt showing that a deposit of five hundred rupees has been made by him either in a Government treasury or in the Reserve Bank of India in favour of the Secretary to the Election Commission as security for the costs of the appeal."

I have no objection to the purpose behind this phraseology. But I object to the phraseology. There must be a provision that if a person who prefers an appeal does not comply with the provisions, his appeal should not be entertained. So I have changed the phraseology as follows :

> "No appeal under Chapter IVA shall be entertained unless the person who prefers it encloses with the memorandum of appeal a Government treasury receipt showing that a deposit of five hundred rupees has been made by him either in a Government treasury or in the Reserve Bank of India in favour of the Secretary to the Election Commission as security for the costs of the appeal."

This includes a provision that in case he does not discharge the liability imposed on him by this provision the appeal would not be entertained. The only objection to this was there is already section 117 by which security has to be deposited at the time of filing the petition and so the same phraseology has been used. I think that no phraseology should be sacrosanct if it does not bring out the purpose which is intended to be conveyed. Therefore, by amendment No. 30, I want to change the phraseology of section 119A. By amendment No. 30, I seek to change the phraseology of section 117 also of the principal Act, to bring it into conformity with section 119A as proposed in my amendment No. 31. This phraseology I think, is the right one. Therefore, I commend my amendment Nos. 25, 26, 27, 28, 30 and 31 to the acceptance of the House, Amendment Nos. 30 and 31 are verbal changes but they are important.

Shri Venkataraman : My amendment No. 135 is a very simple one. Under clause 49 of the Bill, power is granted to the Election Commission to withdraw any petition pending before the tribunal and then transfer it to another tribunal. My amendment states that such a transfer shall be made only after notice to the parties is given. My amendment reads thus :

> Page 19, line 14—
>
> *after* "stage" *insert* "after notice to parties" and

This word "and" would make the syntax correct. The clause would then read as follows :

> "The Election Commission may at any stage, after notice to parties and for reasons to be recorded, withdraw any petition pending before a Tribunal and transfer it for trial to another Tribunal...." etc.

The object of this amendment is to comply with certain observations made by the Supreme Court in respect of certain transfer of cases in an income-tax matter. It was considered by them that such transfers without notice would militate against the principles of natural justice. Therefore, since this power given for the first time under the new Bill, we may comply with the requirements of natural justice and see that notice is given.

Shri Kamath : Having run the gamut of the trial of election petitions from the lowest stage of the Tribunal, through the intermediate stage of the High Court, to the last stage of the Supreme Court, I trust and I venture to hope, that you will agree that I am somewhat more competent to speak on these clauses than most of my hon. colleagues in this House.

Mr. Deputy-Speaker: Even otherwise.

Shri Kamath : Fortunately or unfortunately, I have some experience of the functioning of Tribunals and the High Courts and the Supreme Court. Therefore, I will crave your indulgence to dwell a little more elaborately than others have done....

Mr. Deputy-Speaker : There is time only up to 3 o'clock for this group.

Shri Kamath : I will take only 5 or 6 minutes.

I need not mention the amendments, because I have already given them separately—amendments Nos. 131 to 134 and 160 to 163. The first amendment relates to the constitution of the Election Tribunal. Under the present Act, the composition of the Tribunal is roughly one serving District Judge plus a retired District Judge plus an advocate of more than ten years' standing at the bar. The former Chief Justice of India, Mr. Mehr Chand Mahajan himself while arguments were in progress in my case before the full bench with all the 7 judges sitting, had some harsh things to say about the way some of these Tribunals had worked. I would not quote those remarks here, but the trend of his remarks was, that but for articles 136 and 226 of the Constitution, justice would not have been done to many candidates who had lost or some candidates who had unfairly won the election to the Parliament and to the State Assemblies. I would personally suggest that instead of the Tribunal consisting of three persons, a serving District Judge, a retired District Judge and an advocate, there should be a single-member Tribunal who is a High Court Judge and the Election Commission, as soon as it receives the petition, should forward it to the Chief Justice of the State in which that petition has arisen, and that Chief Justice might refer it to one of his colleagues for trial. I do not know whether the Government is prepared to accept that amendment. But, if it is not accepted, I would at least insist that the following amendment of mine should be accepted :

> "Provided further that where the petition calls in question the election of a Minister, Deputy Minister or Parliamentary Secretary, it shall be tried by a tribunal consisting of a judge who neither is, nor has been, a judicial officer in the State where the Minister or Deputy Minister or Parliamentary Secretary holds office."

This has struck me, because a petition which called in question the election of the former Finance Minister of my State, Madhya Pradesh, Mr. Brijlal Biyani, was dismissed by the Tribunal on a very technical ground. It was dismissed on the ground, I believe, that it was presented one day late and by an unauthorised person not having the power of attorney or something like that. It took a long time to go to the Supreme Court and the Supreme Court passed severe strictures on the way in which the Tribunal had behaved. The Supreme Court passed orders to the effect that that petition should be tried by a Tribunal consisting of Judges from outside that State. A Tribunal consisting of District Judges and advocates from Bombay State was constituted to try the election petition which called in question the election of the Finance Minister of Madhya Pradesh.

The Deputy Minister of Production (Shri Satish Chandra) : What about Central Ministers?

Shri Kamath : I can speak only of cases about which I have personal knowledge. Therefore, this amendment is a very salutary one and must be accepted if we are to have a fair trial of election petitions.

The other amendment is rather consequential to what I moved yesterday. It relates to the deletion of Jammu and Kashmir. I will not labour that point again, because that aspect of the matter was discussed yesterday and it was not accepted by the Minister and therefore by the majority party.

I would come to the last point which is covered by my amendments Nos. 160 to 163. An amendment is sought to be made in clause 54 of the Bill, to section 100. of the principal Act. It is a very important section in the principal Act which deals with the grounds on which an election is declared void by the Tribunal. The tail of sub-clause (c) of sub-section (2) of section 100 of the principal Act contains the words "or of any other Act or rules relating to the election, or by any mistake in the use of any prescribed form". That ground is sought to be eliminated now. I do not know why. The Minister should explain why this amendment is brought in here seeking to delete or eliminate the portion I have mentioned from the grounds on which the election can be declared void.

Lastly, I come to amendment No. 161. The present clause 59 says:

> "Every order of the Tribunal under section 98 or section 99 shall take effect as soon as it is pronounced by the Tribunal."

The present Act provides for its taking effect after its publication in the Gazette. Suppose the respondent is unseated as a result of the election petition. If it takes immediately, what happens? He loses his seat and even if he wants to appeal later to the High Court or to the Supreme Court under article 136 of the Constitution, the High Court cannot reinstate him in his seat, nor can the Supreme Court do it. Therefore, I have moved the following amendment:

> "Provided that if the person affected by the order intimates his intention of filing an appeal to the High Court, the Tribunal shall, upon his executing a bond for such reasonable amount as the Tribunal may fix, stay operation of its order till after the period of limitation provided by sub-section (3) of section 116A for filing an appeal to the High Court expired."

I think this is a very necessary safeguard against the injustices being perpetrated by Tribunals and I have no doubt that it will be accepted by the House in the interests of justice and fairplay. I do not propose to press amendment No. 162, because it is covered by amendment No. 161. Amendment No. 161 is precise.

By my last amendment No. 163, I seek to omit lines 10 to 13 of the clause 116B. I do not see the point in this. It says:

> "The decision of the High Court on appeal under this Chapter and subject only to such decision, the order of the Tribunal under section 98 or section 99 shall be final and conclusive."

I suppose even in the present Act a similar provision was made, section 105. So many petitions were taken up to the High Court and Supreme Court and the Supreme Court has held that it is final and conclusive only under this Act. The constitutional powers of the High Court and the Supreme Court are unfettered by the provisions of this Act. So in saying that this order shall be final and conclusive, I do not see any point. As a matter of fact, the High Court may in its inherent powers grant leave to appeal to the parties concerned. If the party does not get leave, he may move for special leave in the Supreme Court. Therefore, I suggest that the proposed new sub-section that the decision shall be final and conclusive may be omitted. I move all the amendments except amendment No. 162 and commend them to the House.

Shri K. L. More: Mr. Deputy-Speaker, my first amendment is No. 24 to clause 48. The amendment is:

> Page 19, *after* line 3, *add:*
>
> "Provided further that if the Election Commission considers it expedient so to do, it may appoint a person who has been a judge of a High Court as the member of a Tribunal."

Ordinarily a Tribunal shall consist of a serving district judge. This amendment seeks to empower the Election Commission to appoint a retired High Court judge as a member of a Tribunal if it likes to do so in any case. I do not wish to say anything more about this amendment.

My next amendment No. 29 to clause 61 reads as follows:

> Page 23, lines 27 and 28, *for* "the orignal decree" *substitute* "an original decree".

This amendment simply seeks to ratify a printing mistake.

Then, I come to my amendment No. 32 to caluse 68A. That is a new clause. The amendment reads as follows:

> Page 27, after line 36 *add*—
>
> "68A. *Amendment of section* 236.—In section 136 of the principal Act, in clause (d) of sub-section (1), *after* the words "to any person", the words "or receives

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any ballot paper from any person or is in possession of any ballot paper" shall be inserted."

Under the existing law, supply of ballot paper without due authority is an offence. Receiving or possession of any ballot paper without due authority is not an offence. This amendment seeks to remove this lacuna.

With these words, I commend my amendments to the acceptance of the House.

Shri Mulchand Dube: Mr. Deputy-Speaker I have moved amendments 191 and 193. Amendment No. 191 relates to clause 45. I shall read clause 45, section 83(1).

> "83(1) An election petition—
>
> (a) shall contain a concise statement of the material facts on which the petitioner relies;
>
> (b) shall set forth full particulars of any corrupt practice that the petitioner alleges including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice;"

By this amendment I wish to add another clause (bb), which reads as follows:

> "(bb) shall contain a list of documents on which the petitioner proposes to rely in proof of his case and a list of witnesses with a full description of each witness giving his parentage, occupation and place of residence;"

The object of moving this amendment is, so that the case may not be manufactured during the trial. Everybody who has had anything to do with the trial of cases or the conduct of cases will readily admit that cases have a tendency to develop and grow with the lapse of time. If a case is allowed to hang for a year or two or six months, the chances are that it will develop and in many cases, things which were not in the contemplation of the parties at the time when the petition was filed would be included in it. Having regard to the nature of election cases, it would also be, I suppose, admitted that every candidate has a large number of voters at his back and these voters or electors are in many cases more interested in the success of the petition than perhaps the candidate himself. Therefore, there is possibility of evidence being manufactured, documents being forged and in other ways, the case being bolstered up. For this reason, I submit that it is necessary that the petitioner at the very earliest stage of the case, should be confined not only to the allegations, but also the documents on which he wants to rely as also the witnesses that he wants to produce. This occurred to me from the provision in the Criminal Procedure Code that has recently been passed by this House under which, a party who files a complaint has to give a list of witnesses on the very first day and when the date is fixed for hearing, he has to produce his witnesses unless for sufficient cause, he is unable to do so. A similar provision occurs in the Civil Procedure Code also, that the documents on which the party wishes to rely have to be entered in a list to be attached to the plaint. So, I submit that if even in ordinary cases in which an individual is interested it would be possible for documents to be manufactured at a later stage or witnesses to be got up easily, in election cases, it is more so. For that reason, I have moved the amendment and I hope the hon. Minister will accept it as a simple one, that the petitioner should be confined to the documents that he wishes to produce at the earliest possible stage and that he should also be confined to the witnesses that he wants to produce.

There is a consequential amendment that deals with the old section 90 There, one proviso has been deleted and another retained. The second proviso which has been retained reads as follows:

> "Provided further...."

The word "further" has been deleted.

> "Provided that the Tribunal shall have the discretion to refuse for reasons to be recorded in writing to examine any witness or witnesses if it is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witness is doing so on frivolous grounds or with a view to delay the proceedings."

This power is already there. By my amendment No. 193 I wish to make a further proviso :

> "Provided that the Tribunal shall refuse to examine a witness not included in the list contained in the petition except on good or sufficient cause being shown for the non-inclusion in the list:

and a second proivso :

> "Provided further...."

will remain as it is in section 90. This is merely a consequential amendment to the one proposed by me to clause 45. If that amendment is accepted, this will necessarily follow, and I hope the hon. Minister will have no difficulty in accepting the amendment that I have moved.

Shri Seshagiri Rao (Nandyal): My amendments are Nos. 230, 231 and 232. Amendment Nos. 231 and 232 have been argued at length by my friend Shri M. L. Agrawal. I do not want to repeat the same arguments, but I would submit that the way in which he has given the amendment is different from the way in which I have given. Improper rejection of a nomination paper should not by itself be a ground for invalidating the election. In the present clause this comes as clause (c), reading:

> "That any nomination has been improperly rejected".

Instead of coming there, I want it to come under clause (d), *i.e.*, under the head that the result of the election has been materially affected. Under it you will find there are two or three items. I want that the election should be invalidated only if it is materially affected by the improper rejection of a nomination paper, and therefore I have suggested that the words "improper rejection of any nomination" should come at the end of line 34 in page 21, *i.e.*, at the end of (d) (i), instead of the words coming as they do in the clause at (c).

Coming to clause 48, I would like to make a few observations. I do not know why retired district judges are disqualified from being members of the Tribunal. In the old act, in section 86 the wording is :

> "a list of persons who are or have been district judges in the State or who are in the opinion of the High Court fit to be appointed as members of the Election Tribunals"

So, when we are taking away the non-official element from the panel of the Members of the Tribunal, should we not have at least retired District Judges who are no longer within the influence and pressure of the Government in power ? Under clause 48 the proposed new section 86(2) reads :...."a list of persons who are district judges in the State", but it should be made "who are or have been district judges" as is the wording in the original section 86(2). That would eliminate the danger that only officials are made members of the Tribunals. The retired district judge will be in a position to give his opinion impartially as he will have nothing to do with the Government.

I have suggested one more amendment which is very simple. It is not a question of policy, it is only a question of wording. Section 86(4) of the principal Act reads :

> "If during the course of the trial, any member of a Tribunal is for any reason unable to perform his functions or has to relinquish his membership, the Election Commission shall appoint another member...."

According to the scheme of the principal Act, a Tribunal consists of three members, while now we have made it a one-man Tribunal, but the same wording is used in the present clause (4), *viz.*, if for any reason any vacancy occurs etc. If there is any vacancy, the Tribunal ceases to function as it consists of only one member. When there is only one member in the Tribunal, how does a vacancy arise in the membership ? If the vacancy arises in the membership, there is no Tribunal at all. Therefore, I submit that clause (4) must be recast in view of the decision that every Tribunal shall consist of a single Member.

Shri Raghavachari : I only wish to point out to the hon. Minister in charge that so far as this appeal and the orders of the Tribunal taking immediate effect are concerned, it may lead to utter confusion. I shall explain what I mean.

The proposed section 107(1) says :

> "Every order of the Tribunal under section 98 or section 99 shall

[Shri Raghavachari]

take effect as soon as it is pronounced by the Tribunal."

Let us say that the Tribunal pronounces an order today. It takes effect immediately. The man is unseated, and the man declared elected can come and begin to function that very day.

The proposed section 116A(3) reads:

> 'Every appeal under this Chapter shall be preferred within a period of thirty days from the date of the order of the Tribunal under section 98 or section 99:".

So, a right of appeal is given within 30 days. The Minister when he was introducing the Bill, no doubt, explained that there are powers for stay in the High Court. I will read that portion also :

> "Where appeal has been preferred against an order made under clause (b) of section 98, the High Court may, on sufficient cause being shown, stay operation of the order appealed from and in such a case the order shall be deemed never to have taken effect under sub-section (1) of section 107."

So, it means if the Tribunal pronounces the order on the first of this month, the new man functions and if on the 30th of the month when an appeal is filed and the High Court stays it, he is deemed never to have functioned. During the interregnum the appellant will be in a *Trisanku swarga* or somewhere else. It leads to confusion. Therefore, it will be consistent in any law to say that the order will take effect immediately the appeal period is over, or you may say it will take effect on the thirtieth day. One can understand that. He must file an appeal within time and obtain the seat. It is precisely to avoid this kind of confusion that my hon. friend Shri Kamath has given an amendment. I am not very much satisfied with it because he has further burdened the petitioner in appeal to give security etc. only to show the *bona fides* of the individual that he has a case. Therefore, I am urging that as it is, it leads to confusion and the amendment may be accepted. It will be more appropriate.

I also examined the language of clause 48 to which Shri Seshagiri Rao referred. The same language is there in the principal Act when the Tribunal consisted of three people. But I think that language can equally be made applicable to a one-man Tribunal, and it is not necessarily likely to lead to much confusion. It might well have been changed, but even without a change it does not really affect the position or lead to any confusion in interpretation. That is how I feel about it.

Mr. Deputy-Speaker : The hon. Minister.

Shri Raghavachari : One thing I wanted to say.

Mr. Deputy-Speaker : I thought the hon. Member had concluded.

Shri Raghavachari: If it is your pleasure, I will conclude.

Mr. Deputy-Speaker : I would point out to him that the time is up. And moreover, from the hon. Member's manner itself I thought he had concluded. If he has to say anything, he might do so.

Shri Raghavachari : I only wanted to say one sentence. As regards the composition of the eligible judges for the new Tribunals, I urged at the earlier stage that district judges were sufficient. It has been accepted. I very much wish they had said "district judges of at least six years' standing", because an Additional Judge, a City Civil Court Judge, all kinds of people can come under district judges now, and then that sanctity or that public confidence may not be there.

3 P.M.

Shri Pataskar : So far as these amendments are concerned, I think many of them are to clause 48 which deals with the constitution of tribunals.

Shri Kamath : Also to clause 54.

Shri Pataskar : As hon. Members will realise, the scheme evolved by the Select Committee is as follows :

> "For the purpose of constituting such Tribunals, the Election Commission shall obtain from the High Court of each State (other than Jammu and Kashmir) a list of persons who are district judges in the State and are in the opinion of the High Court fit to be appointed as members of Election Tribunals and shall maintain the list by making such alterations therein as the High Court may, from time to time, direct."

A fear was expressed just now by an hon. Member that under this provision, even district judges, civil court judges etc., who are not of a very long standing and experience may be appointed as members of such tribunals. But the Select Committee have taken the precaution already by suggesting that the members shall be drawn from a list which has been prepared by the High Court, because the High Court is expected to know which persons should be included in the list and which not. We cannot go beyond this in a matter of this nature.

There were many suggestions made with regard to the composition and functioning of the tribunals. As I said earlier, the scheme evolved is that ordinarily the tribunal will consist of a district judge who will be a person selected from the list prepared in consultation with the High Court.

One of the main things which led to so many complications on account of the old provision has been removed now, inasmuch as we have given the right of appeal to the High Court in all cases where the aggrieved party wants to prefer an appeal, and I believe that on the whole, this provision that we have made should satisfy hon. Members.

There is an amendment by Shri K. K. Basu to this clause, which reads :

Page 18, *for* lines 24 to 30, *substitute* :

> "(2) For the purposes of constituting such Tribunals, the Election Commission shall transmit the petition to the High Court having jurisdiction in the State where election was held. Such High Court shall treat such petition in its original jurisdiction."

This relates to the transfer of the petition from the Election Commission to the High Court. Under the law as it stands, difficulties have been experienced even in cases where it was thought desirable that the matter should be tried not by the same tribunal but by somebody else, because there was no power with the Election Commission or anybody else in the old scheme of things. That is why this power has been taken now and is sought to be vested in the Election Commission.

Suggestions have been made that the matter may be allowed to come up before the High Courts. The point is, as I had stated earlier, that is, on the previous occasion, we have constituted the Election Commission as an independent authority, and the Election Commissioner had been saddled with the responsibility of seeing not only that the elections are held in a fair and free manner but also that the disputes that might arise out of the elections are decided in a fair and proper manner. Therefore, I think it is much better not to introduce courts at every stage, but to leave it to the Election Commission.

Then, there was a suggestion that if a Minister of a State was concerned, then the judge should be chosen from some other State. But I believe that the Election Commission have been discharging their duties in a fair manner, and I believe that probably nobody has ever had any occasion so far to find fault with the Election Commission with respect to what they could do under the law as it then stood, for seeing that the administration of the law concerning these matters was done in a proper manner.

Shri Kamath: We were not finding fault. It was the Supreme Court which found fault, As the Minister will recall, in Biyani's case, the Supreme Court ordered trial by a judge outside Madhya Pradesh that is, from Bombay State.

Shri Pataskar: I know that. But I do not know how that would lead us to think that what we have now done under this section is not correct. Anyhow, I do not want to enter into the discussion of individual matters. It is always undesirable to do it, whether it is in favour of one party or another, or once individual or another. I think on the whole the scheme which has been formulated with great care and after a good deal of discussion should be agreed to.

In the same amendment, my hon. friend Shri K. K. Basu has also suggested that :

> "Such High Court shall treat such petition in its original jurisdiction".

I think that all these complications should be avoided and power should be given to the Election Commission. If they think that the case may be transferred, they can do so. But I think

[Shri Pataskar]

such cases would be very rare. We are taking care here to see that it is only out of the list prepared by the High Court that these tribunals will be appointed. In view of the fact that we are also providing for a direct appeal to the High Court, I think many of the troubles which we had experienced in the past may not probably arise again.

There are some formal amendments, which I am prepared to accept, namely amendments Nos. 24, 29, 32 and 135.

Mr. Deputy-Speaker : To which clauses do they relate?

Shri Pataskar : Amendment No. 24 is to clause 48. Amendment No. 29 is to clause 61. Amendment No. 135 is to clause 49. That amendment seeks to provide that in case there is a transfer of an election petition, it should not be done without notice to both parties. I think that is a very formal thing.

Then, there is amendment No. 32.

Shri Kamath : What about stay of the tribunal's order suggested in amendment No. 161?

Shri Pataskar : Amendment No. 32 reads :

Page 27, *after* line 36, *add:*

> "68A. *Amendment of section* 136.—In section 136 of the principal Act, in clause (d) of sub-section (1), after the words 'to any person', the words 'or receives any ballot paper from any person or is in possession of any ballot paper' shall be inserted.".

This is also a formal amendment.

Mr. Deputy-Speaker : To which clause is it?

Shri Pataskar : It is for the insertion of a new clause 68A.

Mr. Deputy-Speaker : We are not taking it up in the present group.

Shri Pataskar : In that case, we shall take it up in the proper place.

Mr. Deputy-Speaker : Shri Kamath wants to know what has happened to his amendment about stay of the tribunal's order.

Shri K. K. Basu : Usual fate.

Mr. Deputy-Speaker : When there were three members on the tribunal, their order did not take effect immediately, but when only one member is there now, the order takes effect immediately.

Shri Pataskar : I shall explain that matter. In fact, this matter was discussed in the Select Committee also. Under the law as it stands, the order does not take effect immediately, but only from the date of publication in the gazette. The result of this provision was that in many cases there were complaints from certain quarters. So, it was thought better that instead of giving any room for any exercise of discretion and giving ground for complaint that the matter was deliberately delayed, we have provided now that it should take effect immediately, but if the appeal is filed, naturally it would be open to the High Court to stay it. But if there is no appeal, then the person concerned will not suffer.

Shri Kamath : But there is a practical difficulty here.

Shri N. C. Chatterjee : May I point out that in some cases, it has happened that the election tribunal not only sets aside the election but also declares the defeated candidate as duly elected. In such a case, he has got the right to come and start sitting in the House. As you know, in your experience, the Supreme Court has set aside such an order in more than one case, and it has led to tremendous trouble. Therefore, we pointed out that there should be a reasonable time-lag between the pronouncement of the judgment and the actual coming into operation of it. At least, the limitation period for the appeal should be provided.

Mr. Deputy-Speaker : At that time, the order was final and conclusive. Now, there is an appeal also. When it was final and conclusive, it took effect after it had been published in the Gazette. When it is not final and is subject to appeal it takes effect immediately.

Shri Kamath : Anomolous.

Shri Pataskar : The Election Commission has not found that that arrangement was very satisfactory. I would not like to discuss that matter. This matter also was the subject of discussion in the Select Committee. What we are now trying to put is this, that as soon as an order is passed, it should come into effect, but if there is an appeal and if the High Court chooses to issue a stay order, it is a different matter. In many cases of these appeals, the High Court may not choose to do so.

Shri N. C. Chatterjee: Kindly look at page 24 of the Report of the Select Committee. Sub-section (4) of the proposed section 116A says:

> "Where an appeal has been preferred against an order made under clause (b) of section 98, the High Court may on sufficient cause being shown, stay operation of the order...."

Mr. Deputy-Speaker: That has been brought to the notice of the Minister already by Shri Kamath.

Shri N. C. Chatterjee: What I am asking is: in the meantime, what would happen? You know that no appeal can be preferred unless a certified copy of the judgment is filed along with the statement.

Mr. Deputy-Speaker: We have tried our best to convince the Minister.

Shri Kamath: Let me cite a concrete case. Mr. A challenges Mr. B's election. Mr. A wins the election petition and Mr. B is unseated. Does Mr. B lose his seat along with the declaration of election of Mr. A to parliament? The High Court has no power under the law or the Constitution to re-instate Mr. B in case......

Mr. Deputy-Speaker: Order, order. We have to convince or persuade the Minister. But if he is not agreeable, it cannot be helped.

Shri Kamath: Amendment No. 161 obviates all difficulties.

Shri Pataskar: I am satisfied with the provision contained in sub-section (4) of section 116A.

Mr. Deputy-Speaker: I will now put the amendments and clauses to the vote of the House.

The question is:

"That clauses 43 and 44 stand part of the Bill".

The motion was adopted.

Clauses 43 *and* 44 *were added to the Bill.*

Mr. Deputy-Speaker: The question is:

Page 17—

after line 35, *insert:*

> "(bb) shall contain a list of documents on which the petitioner proposes to rely in proof of his case and a list of witnesses with a full description of each witness giving his parentage, occupation and place of residence;"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 45 stand part of the Bill".

The motion was adopted.

Clause 45 *was added to the Bill.*

Clause 46 *was added to the Bill.*

Mr. Deputy-Speaker: The question is:

Page 19—

after line 3 *add*:

> "Provided further that if the Election Commission considers it expedient so to do, it may appoint a person who has been a judge of a High Court as the member of a Tribunal".

The motion was adopted.

Mr. Deputy Speaker: The question is:

Page 19—

after line 3 *add:*

> "Provided further that where the petition calls in question the election of a Minister, Deputy Minister or Parliamentary Secretary, it shall be tried by a tribunal consisting of a judge who neither is, nor has been, a judicial officer in the State where the Minister or Deputy Minister or Parliamentary Secretary hold office."

The motion was negatived.

Mr. Deputy-Speaker: I shall now put the other amendments relating to clause 48 to the vote of the House.

The question is:

Page 18—

omit lines 24 to 34.

The motion was negatived.

Mr. Deputy Speaker: The question is:

Page 18, line 26—

omit "(other than Jammu and Kashmir)".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 18—

for lines 35 *to* 37, *substitute:*

"(3) Every tribuanl shall consist of a single member who is or has been a judge of a High Court".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 18, line 35—

for "a single member" *substitute*:

"not less than two members".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 18—

for lines 24 to 30, *substitute:*

"(2) for the purpose of constituting such Tribunals, the Election Commission shall transmit the petition to the High Court having jurisdiction in the State where election was held. Such High Court shall treat such petition in its original jurisdiction".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 18—

for lines 35 to 37, *substitute:*

"(3) Every Tribunal shall consist of a single member".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 19—

for lines 4 to 11, *substitute*:

"(4) The Supreme Court in consultation with Election Commission shall frame such rules or procedure for conduct of the Election Tribunal petition."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 19—

for lines 4 to 9, *substitute:*

"(4) If any vacancy occurs in any Tribunal the Election Commission shall as soon as practicable fill the vacancy in accordance with the foregoing provisions of this section, and thereupon the trial of the petition shall be continued as if he had been on the Tribunal from the beginning."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 48, as amended, stand part of the Bill".

The motion was adopted.

Clause 48, *as amended, was added to the Bill.*

Mr. Deputy-Speaker: The question is:

Page 19, line 14—

after "stage" *insert:*

"after notice to parties".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 49, as amended, stand part of the Bill".

The motion was adopted.

Clause 49, *as amended, was added to the Bill.*

Mr. Deputy-Speaker: The question is:

Page 19—

for lines 24 to 26, *substitute:*

'(b) in sub-section (2), for the existing provisos, the following proview to delay the proceedings".'

"Provided that the Tribunal shall refuse to examine a witness not included in the list contained in the petition except on good or sufficient cause being shown for the non-inclusion in the list :

Provided further that the Tribunal shall have in every case the discretion to refuse for reasons to be recorded in writing to examine any witness or witnesses if it is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings".'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 50 stand part of the Bill".

The motion was adopted.

Clause 50 was added to the Bill.

Clauses 51 to 53 were added to the Bill.

Mr. Deputy-Speaker : I shall now put the amendments relating to clause 54 to the vote of the House.

Mr. Deputy-Speaker: The question is:

Page 21—

omit lines 28 and 29.

The motion was negatived.

Mr. Deputy Speaker : The question is:

Page 21, line 34—

add at the end "improper rejection of any nomination".

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 21, line 29—.

before "or" *insert:*

which has materially affected the result of the election".

The motion was negatived.

Mr. Deputy-Speaker : The question is:

Page 22, line 6—

add at the end

"or of any other Act or rules reing to the election, or by any mistake in the use of any prescribed form."

The motion was negatived.

Mr. Deputy Speaker : The question is:

"That clause 54 stand part of the Bill".

The motion was adopted.

Clause 54 was added to the Bill.

Clauses 55 to 58 were added to the Bill.

Shri Kamath: As regards putting amendment No. 161 to clause 59 to the vote of the House, the bell may be rung.

Mr. Deputy-Speaker: Yes. The question is:

Page 23—

after line 5, *add :*

"Provided that if the person affected by the order intimates his intention of filing an appeal to the High Court, the Tribunal shall, upon his executing a bond for such reasonable amount as the Tribunal may fix, stay operation of its order till after the period of limitation provided by sub-section (3) of section 116A for filing an appeal to the High Court has expired."

Those who are for this amendment may kindly say 'Aye'.

Some Hon. Members : Aye.

Mr. Deputy-Speaker : Those who are against this may kindly say 'No'.

Several Hon. Members : No.

Mr. Deputy-Speaker : I think the Noes have it.

Shri Kamath : Sir, the Ayes have it.

Mr. Deputy-Speaker : Then I will have to request the hon. Members to rise in their seats.

Shri Kamath : On a point of order, Sir. The hon. Speaker, some time ago was good enough to say that on points of principle he would allow division. In this particular case, is justice and fairplay is not a matter of principles, what else in the world can be a matter of principle? Justice is the underlying principle. I leave it to your good sense.

Mr. Deputy-Speaker : The hon. Member would not grudge the Chair having the last word. I do not think there is any matter of principle involved. I would request the hon. Members to rise in their seats. They are eighteen.

I would now request those hon. Members who are against this amendment to rise in their seats.

I see a large number.

There is an overwhelming majority against.

The amendment is lost.

The motion was negatived.

Mr. Deputy-Speaker : Amendment No. 162 is not pressed by the Member. Moreover, it is also covered by amendment No. 161 negatived just now. So, it need not be put.

The question is :

"That clause 59 stand part of the Bill."

The motion was adopted.

Clause 59 was added to the Bill.

Mr. Deputy-Speaker : The question is:

Page 23—

for clause 60, *substitute :*

"60. *Substitution of new sections for sections* 108, 109, 110 *and* 111.—For sections 108 to 111 of the principal Act the following sections shall be substituted, namely:—

[Mr. Deputy-Speaker]

'108. An election petition may be withdrawn by the sole petitioner or by all the petitioners, if there are more than one petitioner, by an application signed and verified as prescribed by the sole petitioner or by all the petitioners as the case may be.

109. An application for withdrawal before the appointment of the Tribunal shall be made to the Election Commission and thereafter to the Tribunal.

110. The Election Commission or the Tribunal, as the case may be, shall grant the application for withdrawal subject to such terms about costs as the Election Commission or the Tribunal may think fit.

111. The order allowing a petition to be withdrawn shall be published in the Official Gazette'."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 60 stand part of the Bill."

The motion was adopted.

Clause 60 *was added to the Bill.*

Mr. Deputy-Speaker: The question is:

Page 23—

after line 16, *insert:*

'60A. *Amendment of section* 115.—Section 115 of the principal Act shall be omitted.'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 23—

after line 16 *insert:*

'60A. *Amendment of section* 116.—In section 116 of the principay Act, for the words "the Tribunal shall cause notice of such event to be published in the Official Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Tribunal may think fit" the words "the Tribunal shall hear and decide the petition *ex-parte*" shall be substituted.'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 23, lines 27 and 28—

for "the original decree" *substitute:*

"an original decree."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

Page 24—

omit lines 10 to 13.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 61, as amended, stand part of the Bill."

The motion was adopted.

Clause 61, *as amended, was added to the Bill.*

Mr. Deputy-Speaker: The question is:

Page 24—

after line 13, *insert:*

'61A. *Substitution of new section for section* 117.—For section 117 of the principal Act, the following section shall be substituted;

"117. *Deposit of security.*—No petition shall be entertained unless the petitioner encloses with his petition a Government treasury receipt showing that a deposit of one thousand rupees has been made by him in a Government treasury or in the Reserve Bank of India in favour of the Secretary to the Election Commission as security for the costs of the petition." '

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 62 stand part of the Bill."

The motion was adopted.

Clause 62 *was added to the Bill.*

Mr. Deputy-Speaker: The question is:

Page 24—

for lines 20 *to* 25 *substitute:*

"119A. No appeal under Chapter IVA shall be entertained unless the person who prefers it encloses with the memorandum of appeal a Government treasury receipt showing that a deposit of five hundred rupees has been made by him either in a Government treasury or in the Reserve Bank of India in favour of the Secretary to the

Election Commission as security for the costs of the appeal."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 63 stand part of the Bill."

The motion was adopted.

Clause 63 *was added to the Bill.*

Mr. Deputy-Speaker: The question is:

"That clause 64 stand part of the Bill."

The omtion was adopted.

Clause 64 *was added to the Bill.*

Clause 65.— (*Substitution of new chapters I and II in part VII*)

Mr. Deputy-Speaker: Let me know the amendments which are sought to be moved to clause 65.

Shri N. C. Chatterjee: Clause 65 has to be dealt with separately.

Mr. Deputy-Speaker: Yes; let me know the amendments that hon. Members want to move.

Shri Pataskar: What is time fixed for this, Sir?

Mr. Deputy-Speaker: Originally, we had fixed two hours; but we have now exceeded it. Therefore, we must complete it by 5 o'clock.

Shri Kamath: Sir, I move:

Page 26—

after line 3, *insert:*

(2A) The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other constituency, he is not entitled to vote.

(2B) The removal of a ballot paper from the polling station during polling hours by a candidate or his agent, or by any other person with the connivance of a candidate or his agent."

(ii) Page 26, line 9—

after "emblem" *insert:*

"or a pictorial representation of Mahatma Gandhi,".

Shri K. K. Basu: Sir, I beg to move:

Page 25—

after line 34 *add*:

"(iii) utilises in any way his position as a minister, deputy minister, parliamentary secretary or Vice-Chancellor or similar officer as may be prescribed by the Election Commission before the election, for procuring votes or support from the candidates,"

Shri Sadhan Gupta (Calcutta—South-East): My amendment No. 216 is the the same as amendment No. 164 moved by Shri Kamath. I will move amendment No. 217.

I beg to move:

Page 26, line 4—

omit "systematic".

Shri Seshagiri Rao: Sir, I beg to move.

(i) Page 24, line 36—

omit "or by any other person"

(ii) Page 25, line 19—

omit "or of any other person"

(iii) Page 27, lines 4 and 5—

omit "or, by any other person"

Shri V. G. Deshpande: Sir, I beg to move:

(i) Page 25—

after line 34, *add*:

"(iii) makes a systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion, makes use of or appeals to religious symbols or national symbols, such as the national flag or the national emblems, for the furtherance of the prospects of a candidate's election."

(ii) 27—

omit lines 8 to 18—

(iii) Page 27—

for lines 14 to 16 *substitute:*

"(f) revenue officers; and"

(iv) Page 27—

after line 18, *add:*

"(8) Addressing election meetings or canvassing for a candidate by a Minister, Deputy Minister or a Parliamentary Secretary when he is on an official tour."

[Shri V. G. Deshpande]

(v) Page 27, line 26—

after "counting agent" *insert* "or signs the nomination paper as proposer".

Mr. Deputy-Speaker: All these amendments are before the House.

Shri V. G. Deshpande: Mr. Deputy-Speaker, Sir, my amendments are to certain sub-clauses of clause 65 which deals with corrupt practices. My first objection is to the list of government servants given in sub-clause (7) of clause 65. There, it is said:

> "The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government and belonging to any of the following classes...."

and they have given 7 or 8 classes. In the previous Acts all government servants were precluded. Now, they have restricted that scope. All the government servants are not barred. Only gazetted officers are barred; superintendents and clerks are left free to canvass for any candidate. This is particularly objectionable in a democratic set-up where there would be a party government and smaller government seravnts may take part in the elections. Of course, by (g) they have stated "such other class of persons in the service of the Government as may be prescribed". That means that in the rules you will have to give a long list of servants, who will be precluded, while in the original Act all Government servants were precluded from the list of those persons who could canvass. My plea is that better than the gazetted officers, it is the clerks and even the peons and other Government servants who can canvass much for a candidate.

Secondly, stipendiary judges and magistrates are put in here, but I do not know why honorary magistrates are also not included in this.

Then, there are the members of the armed forces of the Union, members of the police forces, excise officers. That is all right, they have to be excluded.

Then in the list of revenue officers including village accountants, etc., I do not know whether revenue officers higher than the village officers are not meant, like tehsildars, niab-tehsildars and other land record officers. The wording is very defective. Again there is experession "and the like" the meaning of which I do not know. It says "and the like but excluding other village officers". I do not know what other village officers are excluded because in the different provinces there are different types of village officers. I know that in certain provinces, particularly in Berar, previously the patwari was a hereditary officer and he was not a whole-time officer. There are patels with police powers. Why are they not included? Again, the words "and the like" can include any other officers like numberdars and patels. I do not know what is the exact scheme by which the Government is going. Without going into details, I would only appeal to the Minister of Legal Affairs that the wording "and belonging to any of the following classes, namely:—"should be omitted and keep the wording up to "from any person in the service of the Government". All Government servants should be stopped from canvassing in the elections in the interest of free and fair elections. Particularly, the party in power should not support a measure where an army of officers and Government servants would be free to canvass. It will not give us any consolation that by (g) income-tax officers are left out. We know that civil supplies officers also can influence the voting, and there may be so many other clerks in the Import and Export Offices. I do not know what may be the number of offices where the Government servants can be very influential in elections. Therefore, it is best that we exclude all Government servants. No Government servant should canvass with impunity. But now the Bill lays down that some of them can canvass. Therefore, I request the hon. Minister of Legal Affairs to accept this amendment of mine.

In sub-clause (2) we have got a provision as follows:

> "For the purposes of clause (7), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent, or a polling agent or a counting agent of that candidate."

I do not know why they have not included in this the person who signs the nomination form as a proposer. I know an election case—I think it came up to the Supreme Court also—where the Election Tribunal had given a decision in which the candidate was disqualified and his election was declared void, because a Government servant, a Deputy Collector, had signed his nomination form as a proposer. Now I want the House to seriously consider this; if a Superintendent of Police or a District Magistrate in a district sings the nomination form of a particular candidate and in the Returning Officer's office it is found that the Superintendent of Police of the district is proposing the candidature of a certain candidate, will it be possible for the villagers and voters to abstain from voting for that candidate? Therefore, I want that this should also be included, and my amendment No. 82 states that *after* "counting agent" the words "or signs the nomination paper as proposer" should be inserted.

My third amendment is that the words "revenue officers" should also be excluded.

I want to draw the attention of the House to two very important provisions in this clause. One provision is clause (3) on page 26, where, while enumerating the corrupt practices, we have put in the following:

> "The systematic appeal by a candidate or his agent or by any other person, to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of that candidate's election."

I want the House very seriously and coolly to consider my amendment. I may not agree with the House whether casteism is good or not. I am opposed to casteism and I know it definitely that those who profess that they are against casteism or communalism are actually indulging in casteism and communalism. But I do not want to go into that controversy because there is an impression that this clause is placed here in order to discourage casteism or communalism in the country.

Shri Pataskar: Which clause is he referring to?

Shri V. G. Deshpande: Clause (3) on page 26. My first submission is that casteism or communalism or any bad tendency is to be discouraged, but that should not be done by putting it in a legislation. It is the duty of the electorate to discourage any such mentality. I may feel that a particular ideology is bad: then I should go to the voters and tell that that ideology is bad and ask the voters to reject that ideology. It is not by any legislative provision that any ideology should be done away with. Apart from this, my submission is that there can be appeal in the name of religion, caste or community, which can be perfectly legitimate. Can there not be cases where such appeals may be quite legitimate? In the Constitution itself, we have provided that persons belonging to certain castes shall have certain seats reserved for them. By various acts we have to make a declaration before the magistrate that 'I belong to such and such a caste which forms part of the Scheduled Caste in a particular State'. We have provided that certain seats will be reserved for such people in order to protect their interests. Under such circumstances, if there are any castes which are persecuted by other castes, would it not be legitimate for a depressed class man to stand up and say that in the City of Banaras, all Hindus including Congressmen of the Sampurnanand's government, are persecuting his caste, that when satyagrahis go to Viswanath Temple, Banaras, they are arrested? It is the duty of the depressed classes to see that Shri Sampurnanand is not elected in order to please the pandas....

The Minister of Defence Organisation (Shri Tyagi): I submit that Parliament should not be used as a forum for any speech which will go against any particular candidate.

Mr. Deputy-Speaker: It was only an illustration that he was giving. The hon. Member is not naming him specifically as an individual or the Chief Minister of U.P., but is giving an illustration, and perhaps out of his affection for him, he has told that.

Shri V. G. Deshpande: Suppose such things happened—I do not say such things happened—if a depressed class candidate says that a Minister of his party is harassing people who want to take the depressed class people into the Vishwanath Temple, is it wrong? There may be such a satyagraha. It is the duty of all the depressed classes to see that the party is defeated in such a case. I feel that it would be perfectly legitimate for that candidate to make

[Shri V. G. Deshpande]

an appeal in the name of the persecuted and suffering humanity. Our Constitution has provided for it. Therefore, what I am saying is that this clause should not be placed here, but it may be placed under "undue influence". In the case of divine displeasure or threat by a missionary, we have got an election case in Travancore-Cochin, in which one Christian missionary made appeals in the name of religion and stated that persons belonging to Roman Catholic or certain other sect should not vote for the Communist Party but should vote for the Congress, and the Tribunal has given a decision that it is a due appeal in the name of morality and spirituality, that a spiritual head can do it, because it is saved by the other clause where it is said that there can be due influence. There can be due influence and there can be undue influence. In the same manner, there can be undue influence in the name of caste, community, religion or race. Suppose the Tamilians in Ceylone are being suppressed; in the name of the Tamilian community, a due appeal can be made. In a similar manner, there can be an undue appeal. I want that this sub-clause should be included after line 34.

An Hon. Member: It follows.

Shri V. G. Deshpande: It does not follow. If it is proved that a man has appealed in the name of caste, community, race or religion, that by itself is a crime here. It may be due, legitimate, fair or wrong. But they say that this should not be done. I want to point out that this is not what is meant. This is not meant only for discrediting communalism or casteism. It includes certain good things. I do not think our House wants to discredit it. It is not also the intention of the House to discredit the national flag or national emblem or the religious symbols. I think the House wants to retain and encourage them. It is not against religion. I think at least that it is not the meaning of our secularism. Certainly we are not against the national emblem. We want to prevent the undue and unfair use of the national emblem, national flag in elections and therefore, I think that this provision should not be kept as it is. In the original Act, it was kept as a minor corrupt practice. Unless it materially affects the results of the election, it would not make the election void by itself whereas the major corrupt practices would make the election void. So, if you put these under undue influence where illustrations are given, it may be possible for the tribunal to make a distinction in the interest of genuine cases. I am saying this because I know a case. A *chamar* boy—a young boy who was reading in the M.A. class, who was a graduate made an appeal: "I have taken so much education in order to improve the lot of the *Chamars*. Now, the Congress is doing great injustice to the *Chamars*. Have I taken so much education to see that the *Chamar* community is rotting? I stand for them. They should vote for me." For six years that poor boy was disqualified.

Shri Feroze Gandhi (Pratapgarh Distt. West *cum* Rae Bareli Distt.—East): You are imagining a situation.

Shri V. G. Deshpande: This case is reported in the Supreme Court. It is an election case. You will find this case. Such hard cases have occurred and therefore, I would appeal to you to make this change.

I have moved another amendment, No. 81. The obtaining or procuring or abetting or attempting to obtain or procure by a candidate any assistance from any person in the service of the Government is a corrupt practice according to sub-section (7) here. I want the addition of:

> "(8). Addressing election meetings or canvassing for a candidate by a Minister, Deputy Minister or a Parliamentary Secretary when he is on an official tour."

I do not want that all Ministers should be stopped from canvassing for their candidates because, if Ministers do not canvass, who will do. I have no objection to their canvassing in any constituency.

Shri K. K. Basu: Their future itself is very uncertain.

Shri V. G. Deshpande: May be. They should do some charitable duty and help the others. Our experience is that the Central Ministers have gone on tour for bye-elections in States. State Ministers also have toured in the constituency. I do not mind their going there but they should not go on official tour. Sometimes, these official tours are arranged for this purpose. I know a question was answered in the Madhya Pradesh Assembly. A Minister had gone at official expense to a meeting of the All India Congress Committee at Indore;

he went to Poona constituency for a bye-election on an official tour and then returned back to Madhya Pradesh. (*Interruptions.*)

Shri Feroze Gandhi: That is why we lost in U.P.

The Minister of Defence Organisation (Shri Tyagi): Then, Members should not use their railway passes.

Shri V. G. Deshpande: My friend says that they lost in U.P. due to this. In order that they should gain and should not lose, I propose that all Ministers, Deputy Ministers and other officials should not do so while they are on official tour. I remember a Chief Minister, while he was contesting the election, keeping the office of the Chief Minister in a *dark* banglow; he was carrying on the duties of the Chief Minister there. All the district officials and the officials from the provinces used to come there. His election was thus influenced. So, in the interests of fair and free elections, I appeal that these restrictions should be placed on the Ministers. We are so zealous about it. I support the amendment of Shri Kamath that Government conveyance should not be used for party electioneering.

Shri K. K. Basu: Before I speak on my amendment, I wish to support the last amendment of Shri Deshpande for the addition of a new subcluase (8) to the clause regarding the corrupt practices. It debars the Ministers, Deputy Ministers and Parliamentary Secretaries from doing canvassing work for a candidate. He has dealt with it in detail. We must realise the condition in our country, especially in the rural areas which are backward. The office has a great prestige and it can very well be utilised to influence the voters. We have brought forward this amending Bill to improve upon the conditions and see that the elections in future may be held without some of the mal-practices which were observed. We should make it more fair and just. Therefore, I say that we should accept the amendment of Shri Deshpande and also the amendment of Shri Kamath.

Shri Kamath has dealt with the use of the official car. I know that these things are misused.

In a bye-election where we were fighting our ex-minister who was defeated by us in the general elections, we saw the cars and other vehicles belonging to the Government of West Bengal. They were utilised in that particular bye-election. We do not know in what capacity they were brought there. Even in the last bye-election in Calcutta, we saw the lorries, trucks and cars with the mark of the Food Department of the State of West Bengal being freely used in that connection. Therefore, I think we should put a stop to it and debar the use of such things.

I have moved an amendment for the addition of a sub-clause to the proviso on page 25. Under the proviso to subsection (2) of section 123 which we are proposing in clause 65, I want to add the following :

> "(iii) utilises in any way his position, as a minister, deputy minister, parliamentary secretary or Vice-Chancellor or similar officer as may be prescribed by the Election Commission before the election, for procuring votes or support from the candidates,"

From our experience, we found this happening. The ex-mayor of Calcutta utilised the entire machinery of the Calcutta Corporation—even the employees—for getting votes. Of course, they have their own volition and there is no legal undertaking or agreement by which we can prove it. But we have seen, and anybody who had been there and seen the entire election would have also seen, that not only the trucks and employees of the Corporation were used, but even the Corporation primary school teachers and the overseers and other persons who have direct connection with the different localities were made use of. The teachers and overseers in their day to day work come in contact with the voters in the different localities and therefore it is easier for them to influence the voters. So, I want to put a specific bar to such type of work and have suggested that, that should also be included within the scope of this sub-section (2) of the proposed section 123 under clause 65 of this Bill, which deals with undue influence. I have already given one example. Similarly, you know fully well, Sir, in some places, if it is a District Board, the candidate goes and utilises his position in the District Board for canvassing votes. We have got to understand and take into consideration the reality of the situation in our country. In our country the percentage of literacy is not very high. Therefore, a

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person who holds such influence or a position in life can easily influence the voters so far as voting in his favour is concerned. Under the circumstances, in view of the fact that we want to improve upon the election machinery to allow for free and fair elections, I would urge upon the Government to accept the amendment that I have proposed.

I have moved another amendment which deals with a case where a candidate or any person in connivance with the candidate or his agent utilises different methods to influence a person to sell ballot papers or propagates that ballot papers may be brought out of the box and handed over to him. Although, legally speaking, ballot papers cannot be taken out of the booth, we know of cases where similar efforts have been made—though not to a great extent, but at least there are cases where ballot papers are being purchased from the voters—and, therefore, I want that such a practice should also be considered as a major corrupt practice, if it can be proved. I know it is difficult to prove, because it is not done largely. But in some cases that is done and I want that it should be considered as one of the disqualifications and should come within the purview of the corrupt practices. In the interest of good, free and fair elections, the Government should accept the amendment that I have suggested.

Before I conclude, Sir, I would like to oppose the amendment which Shri V. G. Deshpande has moved regarding the deletion or modification—whatever he may call it—of sub-section (3) of the proposed section 123. He gave an example and said that religion may be utilised for such purposes and it cannot be considered as a corrupt practice. Sir, we know very well the history of our country. This casteism, religious groups and all these things have been the cause for the backwardness and enslavement in the past of our country. Today, certainly we want that every citizen must have a right to propagate or practice whatever religion he belongs to. But we cannot allow, especially when we have so rightly accepted to have a secular State, this question of religion to come into play so far as things like Election are concerned. In the example which Shri Deshpande cited, he said that a *Chamar* boy who was well educated was disqualified because he appealed to the people of his community to vote for him. He asked what the Congress had done to that community. If that candidate had asked what the Government had done for the uplift of the backward classes, I would have understood him. But, when he says that a *Chamar* boy should be allowed to appeal to the members of his community to vote for him, I say it is a dangerous move. I say it will completely break the very fabric of society. That will allow to come into play casteism, group feelings, religious fanaticism and what not.

We have seen in the general elections, in spite of the fetters provided, that some people brought into play, though not openly at least in private propaganda—say, that Muslims should vote for Muslims and so on—the religious feelings. Therefore, I think it is a very salutary provision. As a matter of fact, we have suggested an amendment to delete even the word 'systematic'. We want that an appeal by a candidate or his agent or by any other person, to vote or refrain from voting on grounds of caste, race, community or religion should also come under the purview of this clause. An example was given of the Travancore case, where it is said that the Catholic priests asked the people not to vote for the Communist Party but to the Congress and the Tribunal has come to the conclusion that, that is not a good ground to set aside the election. With due respect to the Tribunal, I should say that their decision is completely wrong. I do not say this because the Communist Party is involved. What I say is, if any religious sect comes forward and says that the memebrs of that particular community should vote for the candidate of that community, it is a dangerous thing that we are going to allow. We know that today, in the backward state of our Country, these religions will play a great part and will influence the voters. Therefore, we must guard against all fissiparous tendencies, all sorts of methods which might lead to complete breaking up or destruction of the very fabric of society and the constitution, especially when we have adopted a secular State and we want that parliamentary democracy should thrive and develop in the true spirit in which everybody desires.

Shri S. S. More: Mr. Deputy-Speaker, as a Member of the Select Committee I must take some responsibility for this clause 65. Now, it might be argued by many that we have deleted section 124 and we have also deleted section 125 from the present Act, and we have condensed all the corrupt practices, so-called, without any distinction of minor corrupt practice or major corrupt practice, under this particular chapter.

An Hon. Member: Or illegal corrupt practice.

Shri S. S. More: Yes. Now, may I explain why the Committee has condensed all these so-called pratices under this particular chapter by eliminating certain items or practices which were finding place under sections 124 and 125? May I bring to your notice, Sir, and to the notice of the House that in the Indian Penal Code there are certain sections which deal with election offences? There is a sort of a triplication in our statute law here. Certain offences are treated as major, minor or illegal practices and a person may present a petition to unseat a man accusing that he has committed such practices. But, at the same time, the provisions under the Indian Penal Code remain a sort of a dead-letter because petitioners are more interested in taking advantage of this petition provision than going and filing a suit under the Indian Penal Code.

Sir, if you look at section 139 of the Act, it says:

> "The following offences shall entail disqualification for membership of Parliament and of the Legislature of every State, namely:
>
> (a) offences punishable with imprisonment under section 171E or section 171F of the Indian Penal Code......"

My submission is that if these items are offences under the Indian Penal Code and, if prosecution is launched and it is proved to the satisfaction of the court that the man had committed those corrupt practices, he is convicted. The automatic result will be that the candidate concerned will entail disqualification. If he entails disqualification he will be incapable of continuing as member of the Legislature. To that extent the man who stands as a prosecutor will succeed in obtaining the result which he wants to obtain by starting these election proceedings.

Then, Sir, as far as certain other matters are concerned, I might refer to sub-clause (3). My friend Shri V. G. Deshpande made a great grievance regarding this sub-clause. I do not—you know, Sir, and the House knows—theoretically agree with Shri V. G. Deshpande on many points. The difference between us on many social and economic matters is as wide as the Atlantic Ocean. But, all the same, we must approach our conditions in a realistic manner. Now, we say here: caste, race, community or religion. Take the origin of any caste, particularly the lower caste. All these lower castes have developed because members belonging to that caste have been belonging to certain avocations. Take for instance the avocation of a scavenger. No person belonging to the advanced community is prepared to share that responsibility with him. Take the case of cobblers or shoe-makers. Though some persons, who are unemployed, belonging to the advanced classes are taking to that profession, 99 per cent. of the people belonging to that community have been traditionally following that occupation, which is supposed to be a sinister occupation and not a palatable occupation. Therefore, these groups, though they look like castes, have another side to their shield which is occupational. If such persons having some occupational grievances—scavengers and others—agitate about the grievance and say that a particular person is taking interest in their uplift and that therefore all scavengers should help him, will it be called a systematic appeal? Take also the fishermen community or any other community. I do not know whether these communities or castes belong always to the profession which their names indicate. We may state that these communities who are devoted to particular occupations which are not, as I have said, very palatable occupations, are following the same avocation denoted by the caste. Therefore, if these persons make an appeal not as a caste but on the basis of their own grievances, while carrying on with their occupation, they are likely to come under the guillotine of sub-clause (3). I would have been very happy, though I realise the difficulty, if certain extenuated circumstances or qualifying clause had been applied to this, but unfortunately our ingenuity for drafting a proper clause was at its wit's end.

4 P.M.

Shri V. G. Deshpande referred to sub-clause (7) and proposed that the part of the clause commencing from the words "and belonging to any of the

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following classes" together with all the categories should be deleted. What would happen if this deletion is granted? If any person in the service of the Government renders any help to any candidate, the candidate's election will be vitiated. "In the service of the Government" is a comprehensive term the boundaries of which will be difficult to define. Take, for instance, the new planning programmes that we have started. There are the Community Projects. There are the National Extension Service programmes. There are development boards. There are finance corporations, this and that. As the State is taking more and more responsibilities from the private sector and entering the field of carrying on trade or reconstruction either of the urban or the rural areas, the ambit of government services is rapidly expanding.

Supposing Mr. X is contesting a seat from a rural area, and some person who is a temporary hand, some casual labourer or some *mukadam* or *maistri* or somebody who is construed to be in the service of the Government helps such a candidate. The moment he helps him, whether the result is materially affected or not, the election will stand vitiated and the candidate will have to go out. Now, all of us have realised how difficult it is to get elected and particularly in constituencies which carry lakhs of voters. As far as my constituency was concerned, it was a two-member constituency, spread over 14 tehsils and the total number of voters was more than eight lakhs. The total number of agents that I had to employ was nearly 1,500. Is it humanly possible for any one to find out whether any one out of these 1,500 persons comes "in the service of the Government"? How many patils and patels are there in the villages? In Bombay State, under the Hereditary Officers' Act, there are *wottandars* whose services are dispensed with. There are *taksims* whose services are not dispensed with. The services of deshpandes and deshmukhs are dispensed with. But the services of patils are not dispensed with. A patil family may have 40 persons or so and all the people will not be regularly in the service of the Government. They get something like Rs. 20 or 30 as remuneration for the whole year. But technically they will be in the service of the Government but as a matter of fact they have nothing to do with the Government or the Government service. If the latter part of the clause is deleted, then we expose ourselves—not only the party in power but even the other Members who belong to this side—to be easily unseated, because a petitioner will have to produce one or two witnesses and see that our signature is somehow procured. Now, in the heat of the election, when the people ask us to sign so many documents, we go on signing, and particularly at the time when polling is to be conducted and the whole process is keyed up, we shall have no time to read every document or every piece of paper that is handed over to us for the purpose of signing. The result will be some friends, who are not really friends, will see the advantage that might accrue to him or to some other person, and we sign the document in the hurry of the moment. The result is that the same document will be produced against us, and the final result will be that our election victory will be as brittle as any other brittle object could be. Of course, I say that you may put as many difficulties as you want in the way of the man for getting elected. But once he is elected, we must accept this principle and play the game in the right spirit, namely, if once a man is elected make it as difficult as possible to unseat him. He has somehow survived all the trials and tribulations of going through the ordeal and has been elected, and so allow that man to remain in office at least for the period for which he is entitled to remain. Many of the amendments proposed by Shri V. G. Deshpande are without meaning, and many times Shri V. G. Deshpande proposes amendments without understanding their explicit or implicit meaning. I know that not being a lawyer he cannot understand the far-reaching implications.

I could further say that we have categorised officers. But does that mean that we are oblivious about the other categories of service? The list is illustrative and not exhaustive. We have left power with the Government to prescribe, in the light of their experience and the discretion which they may have in the ambit of the State, and enumerate other officers in service who shall be treated as persons not desirable in the interests of the clients.

Pandit Thakur Das Bhargava: There are the Government Servants' Conduct Rules.

Shri S. S. More: Yes; I accept that there are also Government Servants'

Conduct Rules. A man who is helping a successful candidate brings that candidate to final victory, but he leads the candidate into danger, and at the same time, he also comes into danger, because the Government Servants' Conduct Rules do not look with favour such men who are dabbling in politics. There are village officers. We had the opportunity to know the experiences of the Members at the meetings of the Select Committee, who narrated their own provincial experiences. Take the patil of Maharashtra or a lambardar in Punjab who may be something different. If you are asked or if I am asked or even if Shri Pataskar is asked to prepare a complete list of village officers in all the States, we will have to accept defeat. But we indicated in a broad, general manner, the village officers or the revenue officers. Shri V. G. Deshpande raised the question that by confining sub-clause (f) to revenue officers mentioned in that clause, we excluded the higher officers. No. All revenue officers including village accountants who are supposed to be paid servants of the Government, such as patwaris, lekhpals, talatis, karnams and the like, come under this provision. "And the like" is a frequent expression though you will put it in a latin form in the legislature. But the provision says at the end, "excluding other village officers". There may be two types of village officers. As far as one type is concerned, it falls under this description given in the sub-cluase (f), and it is tabooed. But there is the other type of village officers who, as I have stated, are persons belonging to the patil family. They are village officers in continuous or traditional sense. Therefore, such village officers as have no organic bond with the Government ought not to be treated as in the service of the Government. If I am asked to swear this, namely, "Mr. More, no patil belonging to the patil family has helped you in the election ?" I will have to plead guilty, because in almost all villages half the number of persons belong to the patil family. So many of them helped us.

Pandit Thakur Das Bhargava : What about chowkidars ?

Shri S. S. More : Yes, chowkidars also. But they were asked to swear with a clear conscience that they should not create any trouble. Therefore let us not be very fastidious where fastidiousness is likely to be dangerous to democracy. If every one of us stands in perpetual uncertainty, every time feeling whether something will crop up against us or not, we shall have no heart in working the democratic set-up of the country. Consistent with reasonable standards of fairness of the election, we have imposed these restrictions. But, going beyond the limits that we have indicated will be as dangerous as for Sita going beyond the limits which were demarcated for her by Lakshmana. Therefore, let us not be so fastidious. We cannot afford to be so fastidious. Everyone who tries to be very much fastidious must know that he himself may be on the block with the axe of the petition hanging over his head.

With these words, I commend what the Select Committee has recommended and I would request all other hon. Members not to look at this matter from the party point of view. This Act is not expected to work only against a particular party's candidates. Let us approach it in a non-partisan way, so as to make democracy as pure as possible. You cannot avoid the realities of the situation : you have to face them.

सरदार इकबाल सिंह (फाजिल्का-सिरसा): जनाब डिप्टी स्पीकर साहब, सबसे पहले तो मैं यह समझता हूं कि सिलैक्ट कमेटी ने उन कैंडिडेट्स (उम्मेदवार) की जो कि इलेक्शन (निर्वाचिन) में खड़ा होना चाहते हैं और जो वकील नहीं हैं और जो ला को नहीं समझते हैं, इलीगल प्रेक्टिसिस (अवैध आचरण) मेजर और माइनर (छोटे और बड़े) कोरप्ट प्रैक्टिसिस का तमाम जो सिलसिला था उसे खत्म कर दिया और हर एक चीज को डिफाइन (परिभाषित) कर दिया। उसने साफ साफ कह दिया है कि यह यह चीजें जो आदमी करेगा, उसके खिलाफ इलेक्शन पेटिशन हो सकेगी। आप इस बात को जानते ही हैं कि पहले जो ला (कानून) था वह बहुत ही डिफेक्टिव (त्रुटिपूर्ण) था और अगर एक आदमी कोई इश्तहार निकालता था लेकिन उस पर प्रिंटर और पब्लिशर (मुद्रक और प्रकाशक) का नाम नहीं छपवाता था तो झगड़ा पैदा हो सकता था। अब आप ने इस क्लाज ६५ में वर्डस (शब्द) 'एनी एदर परसन' (अन्य कोई व्यक्ति) रखे हैं। यह एक नई चीज है। मेरी इस सिलसिले में यह गुजारिश है कि इन वर्डस को भी आपको डिफाइन कर देना चाहिये था। आपने जहां यहां पर एजेंट को डिफाइन किया है पोलिंग एजेंट को डिफाइन किया है,

[सरदार इकबाल सिंह]

इलेक्शन एजेंट को डिफाइन किया है और इस तरह की बहुत सी चीजों को डिफाइन किया है, वहां आपको एनी अदर परसन, यानी कोई भी आदमी हो, चाहे वह उसका दुश्मन हो या मित्र हो, चाहे उसके उसके साथ कोई ताल्लुकात हों या न हों, कोई भी अगर कोई फेल करेगा तो उसका सारा गुनाह उस कैंडिडेट पर थोपा जा सकता है । अगर आप इस फ्रेज (वाक्यांश) को डिफाइन नहीं करते हैं तो कम से कम क्या उसका उस कैंडिडेट के साथ ताल्लुक होना चाहिये क्या रिलेशनशिप (सम्बन्ध) होना चाहिये, इसको तो डिफाइन कर दीजिये । अब जो यह एनी अदर परसन यहां पर रखा गया है, इसका कुछ मतलब नहीं होता है । किसी भी आदमी के कोई काम करने से जिसका कि कैंडिडेट के साथ कोई ताल्लुक न हो, जिसका कि उसके किसी एजेंट के साथ कोई ताल्लुक न हो, वह कोरप्ट प्रेक्टिस नहीं हो जाती है । चाहे कोई कैंडिडेट कुछ करे या न करे, चाहे उसका कोई एजेंट कुछ करे या न करे, चाहे उसका कोई इसमें हाथ है या नहीं है, उसको इस काम के करने के लिये सजा दी जा सकती है । इस वास्ते मैंने इन तमाम एमेंडमेंट्स के जरिये से यह चाहा है कि एनी अदर परसन को डिफ़ाइन कर दीजिये, उसके रिलेशंस को डिफाइन कर दीजिये । अगर आप ऐसा नहीं करते हैं तो कम से कम यह कर दीजिये कि उसने कैंडिडेट के साथ मिल कर, उसके इलेकशन एजेंट के साथ मिल कर ये तमाम कोरप्ट प्रेक्टिसिस की हैं, अगर यह चीज़ हो जाये और इसका सबूत भी मिल जाये, तो मैं चाहता हूं उस आदमी को ज़रूर सजा होनी चाहिये । अगर आप ऐसा नहीं करेंगे तो इससे बहुत से झगड़े पड़ जायेंगे और मैं समझता हूं कोई भी आदमी बच नहीं सकेगा । मैं इस बात को मानता हूं कि आपने अब जब इस क्लाज में सब चीजों को बहुत ही अच्छे ढंग से डिफाइन कर दिया है, आपने यह डिफाइन कर दिया है कि कौन सी ब्राइबरी (रिश्वत) है, कौन सी कोरप्ट प्रेक्टिस है और कौन कौन सी दूसरी चीज़ें हैं, तो मैं समझता हूं कि अगर आप एनी अदर परसन को डिफाइन नहीं करते हैं, तो उन आदमियों के लिए जो कि वकील नहीं हैं हमारे पंडित ठाकुर दास भार्गव, श्री एन० सी० चटर्जी जैसे वकीलों की शरण लेनी पड़ेगी । इस वास्ते मैं यह अर्ज करता हूं कि आप इसे डिफाइन करें और अगर एनी अदर परसन ने कोई ऐसा काम किया हो जिसमें कि कैंडिडेट का कोई हाथ रहा हो, या उसको इस मामले में कैंडिडेट की सपोर्ट (समर्थन) मिली हो, तो उसे अवश्य ही इसकी सजा मिलनी चाहिये । आप तो इस बात को जानते ही हैं, कि इलैक्शन के दौरान में एक भाई दूसरे भाई की मदद नहीं करता है, एक आदमी जो एक पार्टी का होता है वह दूसरी पार्टी के आदमी के खिलाफ इलैकशन पेटिशन (निर्वाचन याचिका) कर देता है और इस तरह की चीज़ें उसके बहुत काम आ सकती हैं और इनको उस कैंडिडेट के खिलाफ इस्तेमाल किया जा सकता है । ऐसे मामलों में हो सकता है कि उसकी इलेक्शन रद्द हो जाये ।

इसी सिलसिले में मैं यह कहना चाहता हूं कि अगर किसी ने इलेकशन के दौरान में किसी को कोई वादा दे दिया और इसे उसने लिख कर दे दिया या किसी ने उससे यह लिखवा लिया कि जब फलां शख्स जीतेगा तो वह उसे दो बीघा ज़मीन देगा, तो एनी अदर परसन की डेफिनिशन में अगर इस चीज को भी इलेकशन पेटिशन में ले लिया जायेगा तो कोई भी मैं समझता हूं, नहीं बच सकेगा । आपने यहां पर सिस्टेमेटिक (क्रमबद्ध) अपील की बात भी कही है । अब मान लीजिये कि किसी आदमी ने कोई लेकचर दे दिया, उसका लैकचर अखबारों में निकलता है और उसकी अगर किसी के साथ दुश्मनी है तो वह एनी अदर परसन की डेफिनिशन में आ जाता है और उसके खिलाफ इलेक्शन पेटिशन में उस अख़बार को लाकर पेश किया जा सकता है और इस आधार पर कि उसने फलां लैकचर दिया था और उसका सिस्टेमेटिकली प्रचार किया था चाहे वह लैकचर उसने कभी भी न दिया हो और एनी अदर परसन ने दिया हो, लेकिन फिर भी उसकी इलेकशन वायड हो सकेगी । इस वास्ते मैं चाहता हूं कि इस एनी अदर परसन को भी डिफाइन कर दिया जाये । मेरा अपना विचार यह है कि कोई कोरप्ट प्रेक्टिस नहीं होनी चाहिये और इलेक्शन फेयर होना चाहिये । लेकिन इंसाफ की बात तभी होगी अगर आप एनी अदर परसन को डिफाइन कर दें और यहां पर यह कह दें कि

with the connivance of the candidate or his agent.

इसका मतलब यह है कि उसके एजेंट के कोनाइवेंस (आंख मूंद लेना) से कोई काम हुआ हो, उसकी मर्जी से कोई काम हुआ हो, उससे मंजूरी लेकर कोई काम किसी आदमी ने किया हो, तभी उसके बारे में कोई एकशन लिया जा सकता है । अगर आप एनी अदर परसन की कोई डेफिनेशन नहीं रखते हैं, उसकी रिलेशनशिप को डिफाइन नहीं करते हैं और उस रिलेशनशिप

को साबित करने की बात को यहां पर नहीं रखते हैं, तो मैं समझता हूं कि सिर्फ एनी अदर परसन के कुछ फेल करने पर उस कैंडिडेट को कोई सजा नहीं होनी चाहिये । ऐसी हालत में मैं समझता हूं—

पंडित ठाकुर दास भार्गव : एक मिनट के लिये में अपने दोस्त को इंटरप्ट (अन्तर्बाधा) करना चाहता हूं और इस प्वाइंट (बात) को क्लीयर (स्पष्ट) करना चाहता हूं ।

मेरे काबिल दोस्त ने बड़े ज़ोर शोर से इसके बारे में कहा है और यह भी कहा है कि दफा १२३ ऐसे मामलों में लागू होती है । अगर यही दफा लागू होती तो मेरे दोस्त जो कह रहे हैं वह बेजा था । लेकिन मैं उनकी तवज्जह क्लाज़ ५४(बी) की तरफ दिलाना चाहता हूं । इसमें यह लिखा है कि इतना ही न हो कि कोनाइवेंस हो लेकिन यह कहा गया है कि जब तक कंसेंट (सम्मति) नहीं होगी उस कैंडिडेट का या उसके इलेकशन एजेंट का उस वक्त तक १२३ की जो दफायें हैं वे लागू नहीं है अगर तीसरा शख्स कोई ऐसा काम करता है उस इलेक्शन पेटिशन में । कोरप्ट प्रेक्टिस यह तभी बनेगी जब कि खुद वह कैंडिडेट ब्राइब दे, या उसका एजेंट ब्राइब करे या यह उसकी अपनी कंसेंट से हो, वरना नहीं होगी । इस वास्ते मैं चाहता हूं कि मेरे लायक दोस्त इस गलतफहमी में न रहें कि अगर कोई आदमी कुछ कर देगा तो उस आदमी का किया हुआ फेल उस कैंडिडेट पर लागू हो जायेगा ।

सरदार इकबाल सिंह : यह बात ठीक है कि इसे सैक्शन १०० में डिफाइन किया गया है कि जब फैसला होने लगेगा उस वक्त इस चीज़ को देखा जायेगा और इस पर सोच विचार किया जायेगा । लेकिन जहां तक जुर्म का ताल्लुक है मैं समझता हूं आप उस आदमी को मुजरिम करार दे सकते हैं और उस पर एफ० आई० आर० लागू कर सकते हैं । हो सकता है कि इसकी उसको कोई सजा न मिले । लेकिन वह मुजरिम एक बार हो सकता है और जब उसके केस का फैसला लिखा जायेगा तो उस वक्त इन चीज़ों का भी खयाल रखा जायेगा । लेकिन मेरी गुज़ारिश यह है कि इसको अगर डिफाइन यहां पर कर दिया जायेगा तो बहुत अच्छा रहेगा ।

एक बात मैं और कहना चाहता हूं । मैं यह समझता हूं कि गांव का एक पटवारी या गांव का कोई दूसरा आदमी कोई भी किसी इलेक्शन में किसी कैंडीडेट की इतनी मदद नहीं कर सकता है जिसको यह कहा जाये कि इससे इलेकशन पर मैटीरियल इफेक्ट (विशेष प्रभाव) पड़ा है । जितने आफिशियल्स (अधिकारी) हमारे देश के हैं उन सबको आपने डिफाइन किया है और कहा है कि वे इलेकशन पर मैटीरियल इफेक्ट डाल सकते हैं । लेकिन जहां तक गांवों के आफिशियल्स का ताल्लुक है, मैं यह समझता हूं कि वे आज कल कोई खास पार्ट प्ले नहीं करते और उनका इलेक्शन पर कोई मैटीरियल इफेक्ट नहीं पड़ता, इस वास्ते उनको यहां नहीं रखना चाहिये और सफा २७ पर लाइंस (पंक्ति) १४ से १६ तक ओमिट कर (हटा) दी जानी चाहिये ।

इस क्लास में सिस्टमैटिक अपील का जो प्राविज़न रखा गया है, उसके मुताल्लिक मैंने यह अमेंडमेंट रखी है कि लफ्ज़ सिस्टमैटिक को हटा दिया जाये, क्योंकि पता नहीं यह साबित किया जा सकता है या नहीं कि कोई अपील सिस्टमैटिक है या नहीं ।

मैं यह भी अर्ज़ कर देना चाहता हूं कि जब तक एनी अदर पर्सन को डिफाइन न किया जाये, तब तक जस्टिस नहीं हो सकता है । इसलिये मेरी तजवीज़ है कि इन अलफाज को हटा दिया जाये । अगर हम सैक्शन १०० की तरफ निगाह रखते हैं तो इसका असर लाजिमी तौर पर कैंडीडेट के खिलाफ होगा, क्योंकि जब कोई इलैक्शन पेटीशन हो गया, तो उसके बाद यह जज के फैसले पर मुन्हसिर (निर्भर) है कि वह किस तरफ व्यू लेता है । यह निहायत मुनासिब और ज़रूरी है कि जिसने गुनाह किया हो, उसी को सज़ा दी जाये, दूसरे को नहीं ।

इन अलफाज़ के साथ मैं उम्मीद करता हूं कि मेरी अमेंडमेंट्स को मन्जूर किया जायेगा ।

Shri Raghavachari: I want to voice my nervousness and fear about sub-clause (7), so far as government servants taking part in the elections is concerned. I genuinely feel nervous when they have attempted to categorise some things. A Member of the Select Committee wanted to convince us that they have done much more by way of assisting the prohibition of government servants from participating in elections. To my mind, it looks that the language in which the categorisation is clothed is likely to lead the other way. Do the

[Shri Raghavachari]

framers of this Bill now think seriously that government servants must be prohibited from participating in the elections except to the point of voting; if so very well. But, is that going to be in practice effective? The clause says:

> "....any person in the service of the Government and belonging to any of the following classes, namely :—"

So, all government servants must come under one of these categories. No doubt they have attempted to categorise. Lastly, it is said:

> "such other class of persons in the service of the Government as may be prescribed."

The last clause in the earlier portion includes every one who has not been indicated in the earlier clauses. When the last clause is so inclusive, you have restricted it by saying, "as may be prescribed". The whole thing is as bad as it can possibly be made. If you had omitted the words 'as may be prescribed' it would mean all other persons in the service of the Government. It would be very effective. The words 'as may be prescribed' simply give the discretion to somebody to prescribe. Why not you say clearly, any other class of persons in the service of the Government and thus have an all-inclusive clause?

Shri Kamath: Prescribed by rules means, they would come before the House again.

Shri Raghavachari: You make a list of persons. It may be as long as the Ganges. You have categorised a number of people. Have a clause, all other classes of persons in the service of the Government. That would be the best thing, rather than give a loophole for making it possible for any government servant to influence the election. This is going to be a great handicap. Because, in this unfortunate country, a government servant, though he may not be respected, for the moment is very influential. If they should be permitted to be busy with the election campaign, woe be to fair elections.

I have to offer only one or two other remarks. In the matter of definition of bribery, they have definitely said that any amount paid to a person to stand or not to stand or to withdraw from being a candidate or to retire from contesting the election is bribery. But they have said that if a man has stood and he claims that he has incurred some expenditure, payment of the expenditure shown in his account is not bribery. Does it not belong to the same type? I think public policy requires that this provision should not be there. It leads to a kind of blackmailing. All that is required is, it must be shown in his accounts. He may show anything in his account. I am prepared to concede that there was some difficulty in the way of the Select Committee Members. We know that some such thing is, as a matter of fact, paid and all these things are difficult to prove and they were going on. You want to legalise it. When you define bribery and say that nothing should be paid, any payment becomes bribery. You openly say that a man should file nomination paper, and begin to write up an account and then take money. I think it is opposed to public policy and it is likely to be abused.

I come to sub-clause (5) about hiring of vehicles or conveyances. This is the most abused item in the elections as we know. Hitherto also there was prohibition. The elector must go himself and not even carry his friend. Now, they have said that the voters, may, not only for themselves, but also for their voter friends, hire carriages or conveyances not propelled mechanically. I suppose the congress symbol, pair of bulls, draws all the carts now. So, all the bullock carts may be utilised hereafter. If you want to permit it, permit all kinds of vehicles. Why do mechanically propelled vehicles offend you? Because, more people can be carried. More carriages can come here. I do not understand the distinction. The point would be, in the municipalities and towns, there are no bullock carts and you want to prohibit conveyances in the municipal areas. But, in the village parts, you go on having any number of them. Therefore, it appears to my mind that if you prohibit mechanically propelled vehicles, it is not fair. If you are going to allow conveyances to be hired, by all means give a general order for everybody. One can understand that. This kind of distinction is simply trying to keep a distinction as if we are going to be strict and fair, while actually defeating the very purpose.

Shri Kamath: May I point out, Sir, that there is no quorum in the House?

Mr. Deputy-Speaker: The bell is being rung.

Now there is quorum. Shri N. C. Chatterjee.

Shri N. C. Chatterjee: I was a member of the Select Committee and we thought it was desirable to simplify matters, but I am afraid in our anxiety we have oversimplified things and to some extent one or two matters require consideration.

If you look at the old sections 123 to 125, you will find that eight items were categorised as major corrupt practices, there were five items of minor corrupt practice and there were three items of illegal pratice—altogether sixteen. We thought it was desirable to eliminate illegal practices and we struck out items (1) to (4) in section 124 relating to minor corrupt practice and we elevated item (5) to the level of a major corrupt practice, and put them all in the same category. If you look at the old section 124 (5), it said:

> "The systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious and national symbols, such as, the national flag and the national emblem, for the furtherance of the prospects of a candidate's election."

Kindly see what is going to be included as item (3) in page 26. There is a good deal in what Sardar Iqbal Singh has said. We have gone much further than what was there. The new provision reads:

> "The systematic appeal by a candidate or his agent or by any other person, to vote or refrain from voting on grounds of caste, race, community or religion...."

Formerly it was confined to the candidate or possibly to his agent. But now, "any other person" comes in, and this may lead to a lot of blackmailing, especially of those parties which are dubbed as communal parties. It is very easy to file election petitions and to subject them to all sorts of harassment and black-mailing. In the case of Sardar Sardul Singh vs. Sardar Hukam Singh, you may remember—I am reading from the Election Law Report Digest which came out yesterday—what happened. The first page reports of your case. It says:

> "Agency in election law has a much wired significance than under the ordinary law of principal and agent and may be inferred from the circumstances and conduct. Therefore, newspapers which make special propaganda for the election of any particular candidate are to be treated as agents for the purpose of election law."

This view has been supported in a number of cases and the other day the Supreme Court went so far as to hold that the secretary of a party, although not actually his election agent, must be treated as an agent. Therefore, this is putting the thing too wide. I have great respect for any views expressed by Pandit Thakur Das Bhargava, but look at the section to which our attention was drawn by my hon. friend. He has pointed out that we are putting in in sub-section (1) of section 100 the following:

> "that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent;"

You will find the words are "with the consent of a returned candidate or his election agent". It is very widely put.

Pandit K. C. Sharma (Meerut Distt.—South): The word is "consent".

Shri N. C. Chatterjee: Consent may be express, may be implied, anything.

Pandit K. C. Sharma: Take precautions against....

Mr. Deputy-Speaker: Order, order. This discussion should not go on like this.

Shri N. C. Chatterjee: In section 123 (5) there was no such thing, either "any other person" or "consent". If you look at the wording, it reads:

> "The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false.."

Therefore, I am submitting that it requires a little consideration. Possibly in our anxiety to simplify matters we have put in things which need not be put in. So, "any other person" can easily be omitted. The agent is there and you are putting in the definition that "agent" includes an election agent, a polling agent and any person who is

[Shri N. C. Chatterjee]

held to have acted as an agent in connection with the election with the consent of the candidate. That is quite enoguh. There should not be "any other person".

Pandit Thakur Das Bhargava: May I point out that previously this clause (5) was much larger in scope than it is now?

Pandit K. C. Sharma: The word was "connivance".

Pandit Thakur Das Bhargava: It was "by any other person with the connivance of the candidate".

Pandit K. C. Sharma: And here the agent has been restricted.

Shri N. C. Chatterjee: I am submitting that in the *Explanation* in page 27 we say expressly that "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate. That ought to be quite enough. You should not go any further.

The object of Shri V. G. Deshpande's amendment which I am supporting is to point out that this should really come within the category of undue influence, and must be treated as a corrupt practice.

I am also endorsing the other suggestions especially for penalising or making it impossible for Ministers or Deputy Ministers or officers of Government to utilise their official position under governmental agencies or under governmental auspices by conducting official tours, and also to carry on election propaganda. That should be stopped.

[SHRI BARMAN *in the Chair*]

With regard to clause (7) at page 27, I do not think it is the object of the Government really to allow Government servants to indulge in any improper activities. Item (g) of the clause reads:

> "such other class of persons in the service of the Government as may be prescribed"

I take it the rules will come before and we shall know whether there is any improper categorisation of other classes of persons. But, unfortunately in (f) the language is not very clear. It reads:

> "revenue officers including village accountants, such as, patwaris, lekhpals, talatis, karnams and the like but excluding other village officers"

The words "but excluding other village officers" requires clarification. Is it the object that all village officers other than those enumerated should be allowed to participate or to take part in elections and to further the prospects of candidates? If so, that would be really not helping fair and free elections, but jeopardising it.

Shri Kamath: The proposed amendments to sections 123, 125 and 125 of the principal Act have taken me more by surprise than satisfaction. Particularly I would refer to the deletion or elimination of "personation" from the category of corrupt practices and also removal of ballot papers from polling stations etc., included in sub-section (4) of section 123 of the principal Act, from the category of corrupt practices. I have no doubt that the intentions of the Treasury Benches opposite are honourable, but 'not always' my hon. friend (Shri Anil K. Chanda) on my right is right.

Shri Venkataraman: He has crossed the floor.

Shri Kamath: I take it for the time being. In spirit he used to be always here, but physically also he came across the floor just now and I now find he has left.

An Hon. Member: He has been scared away.

Shri Kamath: I do not know what exactly the Government has up its sleeve in introducing this amendment. I will take the second thing first, *viz.*, the removal of a ballot paper from the polling station during polling hours by a candidate or his agent, or by any other person with the connivance of a candidate or his agent. This has been done at least in some constituencies, and it was openly alleged that in several constituencies this had been done. You know, Sir, that yours was the biggest constituency in India, a unique three-member constituency in India, and you would remember what happened. I do not know what had happened and I would not like you to tell the House what happened there. (*Interruptions*). But I have known and I have heard true stories of what happened in some constituencies of our country. I know what happened in my own constituency and the neighbouring constituencies. I heard from persons who actually saw the thing, that voters used to remove ballot papers and take them outside the polling booth. That is to say, when the ballot papers were handed over to them, they put them in their pocket, they did not cast their vote and they did not put the ballot papers into the ballot box, but walked out of the polling booth with the ballot papers and handed them over to some person, some appointed person, who was waiting about a mile or half away or, some distance away from the polling station, to collect the ballot papers—which half an hour later he put into the ballot box —for a selected price, one rupee, two rupees, or some other price which varied with the importance of the person, the importance of the particular place or the importance of the time. In one case, the person who collected these ballot papers put them in a *gaddi* and in one of the boxes which was opened in my presence in my own constituency, about eleven or twelve ballot papers—I forget the exact number—were found folded together. Normally, every ballot paper is put separately. But it seems that the person who collected these papers and put them into the box in this case was probably an unskilled worker, and therefore he had put them in a *gaddi* or a bunch into the ballot box, and the eleven or twelve ballot papers were found folded together in a bunch. The returning officer detected them, but that is all that was done. But this sort of thing can be done on a larger scale, on a bigger scale, than we can imagine. The other day, I produced here a bunch of ballot papers which have come to Delhi from Jammu.

Mr. Chairman: Will not the returning officer reject such ballot papers?

Shri Kamath: In some places, they are rejected, but in some places, the returning officer refused to reject them. He used his discretion. Later on, of course, it could be challenged by the parties concerned. But because the whole thing has been found in a bunch, as if it had been pasted together, it leads to suspicion. But the returning officer has his discretion.

I quoted another instance the other day, of the Jammu ballot papers having been found in Delhi in a packet again. I had placed them on the Table of the House. You, Sir, were not perhaps here at that time, but the Deputy-Speaker asked me to place them on the Table of the House. But in that case, the ballot papers were all in serial order, and in consecutive numbers. They were not stray papers, but they were papers with consecutive numbers. About twelve or thirteen of them were laid by me on the Table of the House the other day. This sort of thing can be a very serious offence....

An Hon. Member: Which sort of thing?

Shri Kamath: Removal of ballot papers from the polling booth and handing them over to an appointed person. Then, those papers can be put together in some other candidate's boxes. That is certainly a corrupt practice. If that is not a corrupt practice, I do not know what corruption is. Perhaps, my hon. friends opposite think that there is not much corruption in this particular matter; they think of corruption on a much bigger scale only. That is why they think that this is a flea-bite, and they do not bother about this sort of corruption. If my hon. friend opposite is impervious to this sort of corruption, if the Benches opposite are impervious to this sort of corruption, I do not know what will happen, but I am sure that my hon. colleagues, apart from those in the Treasury Benches, have certainly the sense of honour and anxiety to see that the elections are pure, free and fair. I would, therefore, urge that this sort of practice should remain in the category of corrupt practices.

I now come to the still more serious business of personation. My hon. friend Shri S. S. More, I am told—I was not here when he spoke—said that under the IPC it is a penal offence, and the person concerned will be punished. But the point really is not whether the person should be punished but whether the election of the candidate who has secured election by this means of cheating and of getting impersonated votes should not be set aside. I am sure you will agree, with the high sense of honour that you possess,....

Mr. Chairman: Is it not difficult to connect the man who is impersonating with the candidate?

Shri Kamath: But the present Act is very clear on that point. Sub-section (3) of section 123 reads:

> "The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent...."

So, it is very clear there. If it is proved that somebody had impersonated with the candidate's or his agent's knowledge or connivance, and the candidate had secured his election by such impersonated votes, then on that ground, the election tribunal can set aside his election.

Now, I do not want to cast any reflection on any community. But there are certain *purdana shins*....

Shri N. C. Chatterjee: *Burka.*

Shri Kamath: Call it *burka* or *purda*. It has been an awkward thing for presiding officers to make sure whether the person who has a *purda* on is a voter or not. If a *purdanashin* voter comes to the polling booth to vote, if the presiding officer wants to make sure whether that person is a voter or not on the electoral rolls, it is difficult for him to do so.

Ch. Ranbir Singh (Rohtak): Nobody can check that.

Shri Kamath: But I am told that in the last bye-election in which I had taken part in April last, the presiding officers had been given certain powers; and in certain polling booths, women had been appointed to assist them in this matter.

Ch. Ranbir Singh: The indelible ink is there.

Shri Kamath: You can have indelible ink, but it is not so indelible. Indelible character is the first thing. Indelible ink comes later.

It was alleged that in many polling booths, the presiding officer was in a very awkward predicament in regard to these *purdanashin* voters. If this amendment is accepted, then what will happen is that hundreds of people or a few people at any rate might come first and vote as real voters. Later on, after a time, they may put on a *purdah* and a veil, and come as *purdanashins* and vote for the *purdanashin* voters on the rolls. Nobody can prevent it. Of course, they might be punished later on.

Shri Pataskar: So, what should be done. Should the *purda* be torn out?

Shri Kamath: Give powers to the women assistants in the polling booth, as has been done in some places, at every polling station, to see under the *purda* or inside the *purda*....

Shri N. C. Chatterjee: Behind the *purda*.

An Hon. Member: The assistants are not expected to recognise them.

Shri Kamath: It has been done in some polling stations; in my own constituency, I have some personel experiece, and I have seen women assistants in the polling stations doing this kind of thing. I hope that will be taken note of by the Minister.

Shri Pataskar: Without becoming indecent, everything possible will be done.

Shri Kamath: Is it indecent? I cannot understand the Minister's position. Is it indecent to look at the face of a *purdanashin?*

Shri Pataskar: But the hon. Member said, inside the *purda* and so on. I did not appreciate it. It is not good to speak of our sisters in that manner.

Shri Kamath: Nothing was farther from my mind than to say anything indecent.

Mr. Chairman: I am very much concerned whether we can finish the consideration of this Bill within the time-limit. The Deputy-Speaker had said that this should be finished by five o'clock.

Shri Kamath: It will go on for two hours, that is, up to 5.30 p.m.

Shri Pataskar: We had only 1½ hours for this clause, because we had utilised half an hour already.

Mr. Chairman: The alternative then is to sit longer hours and finish it.

Shri Kamath: I shall finish in two and a quarter minutes. I have one more amendment.

I hope in the interests of free and fair elections, and in the interests of purity in elections, these two matters relating to personation and to removal of ballot papers from the polling booth shall remain in the category of corrupt practices and be a ground on which the election can be declared void by an election tribunal during the trial of an election petition.

I come to my last amendment which is No. 164. Sub-section (3) of the proposed section 123 refers to religious symbols or national symbols such as the national flag and the national emblem. I would urge that among these should be included the pictorial or other representation of the Mahatma, the Father of the Nation. I would invite the attention of the House to certain judgments of election tribunals which have held that the picture of Mahatma Gandhi or any representation thereof now after independence, when he is acclaimed as the Father of the Nation, is a national emblem, is nothing short of a national emblem. I understand that when the matter was referred to the Prime Minister—I read it in the Press some months ago—when the matter came before the Congress Working Committee, the Prime Minister wrote to the Madhya Pradesh Congress Committee advising them that this sort of thing should not continue to happen in the elections. As a vote-catching device in the last general elections, Mahatma Gandhi's picture was freely displayed in Madhya Pradesh—I do not know about other States. In my State, in every constituency, Mahatma Gandhi was made to stand with folded hands and at his feet....

Pandit K. C. Sharma: Not in every constituency.

Shri Kamath: Every constituency in my State. I do not know about Meerut. Meerut was a revolutionary part of the country, though not now.

Shri Velayudhan (Quilon *cum* Mavelikkara—Reserved—Sch. Castes): It is reactionary now.

[MR. DEPUTY-SPEAKER *in the Chair*]

Shri Kamath: I was referring to Mahatma Gandhi's picture. That also should be banned from being displayed during elections.

Mr. Deputy-Speaker: We have to finish this clause by five o'clock.

Shri Kamath: I will only take a minute and a half.

I was stressing the point that Mahatma Gandhi's picture or other similar representation must be banned during elections. In my own constituency, and in other constituencies, in Madyha Pradesh, Mahatma Gandhi was made to stand with folded hands in big election wall posters, and at his feet were a pair of bullocks. The words on the posters were:

"इन को वोट दे दो, इन को अपना मत दो ।"

almost pointing to the bullocks. It was an unfortunate poster displayed on walls everywhere in my constituency. So far as I am aware, Mahatma Gandhi never in his whole lifetime canvassed a single vote for any candidate in any election. I am challenging the Minister to contradict this. The Father of the Nation was not allowed to rest in peace in Heaven, but was dragged down to the earth in these dirty election posters, and made to stand with folded hands with a pair of bulloks at his feet, begging people to vote for the pair of bullocks.

I am, therefore, very anxious—and I must emphasise it—that this sort of thing should not be allowed to go on and Mahatma Gandhi should not be exploited by the Congress and the ruling party in any manner, in any form whatsoever, and that any such exploitation of Mahatma Gandhi's name or form should be deemed a corrupt practice for the purpose of avoiding an election.

Mr. Deputy-Speaker: We have to go through all the stages of this Bill today. Therefore, we have to finish this clause by five o'clock. There is absolutely no time left (*Interruptions*). The hon. Speaker had observed that otherwise this might take the time of the other Bill, and there might not be enough time left for that.

Shri Kamath: On a point of order. Rule 131 of the Rules of Procedure and Conduct of Business says that when a motion that a Bill be taken into consideration has been carried and no amendment of the Bill is made, the Member in charge may at once move that the Bill be passed. But if any amendment is made, any Member may object to any motion being made on the same day that the Bill be passed and such objection shall prevail. Of course, discretion is given to you. I would appeal to you that this Bill, being an important measure, and so many amendments having been moved—and I am sure the House will share this view with me—the third reading might be postponed till tomorrow morning, so that we can study the Bill and the amendments made, and come prepared.

Mr. Deputy-Speaker: I am entirely in the hands of the House. But I think if we want to devote more time, we might have to sit longer today. That will be the position because tomorrow morning, the Life Insurance Corporation Bill is due to be taken up. If we encroach upon the time of that Bill, we might not be able to finish that and the programme might be upset. If hon. Members agree and are prepared to sit longer....

Some Hon. Members: No.

Shri Kamath: We can sit for half an hour extra on two days next week, making one hour.

Shri K. K. Basu: The clause by clause discussion will be over by 6-30 p.m. If the third reading is to be taken up then, we may have to go up to 8 p. m.

Mr. Deputy-Speaker: Let us finish the second reading. If we want, we can finish it by 6. p.m. If not, it is for hon. Members to decide. We may have to sit longer.

Shri A. K. Gopalan: It is not only a question of sitting late today. This is a very important Bill. During the discussion, certain amendments are accepted and so many amendments are rejected. We want to study the Bill in the light of those changes and come prepared for the third reading.

Mr. Deputy-Speaker: Let us finish the second reading at least now.

चौ० रणबीर सिंह: उपाध्यक्ष महोदय, मैं धारा नं० ६५ का समर्थन करने के लिये खड़ा हुआ हूं और जो संशोधन श्री वी० जी० देशपांडे ने रक्खे हैं, उनकी मुखालिफत के लिये खड़ा हुआ हूं। आप जानते हैं कि पंजाब में एक प्रथा है नम्बरदार रखने की। इसका भी जिक्र किया गया। आप को मालूम ही है कि पंजाब के अन्दर नम्बरदार को कितना अधिकार है। यदि नहीं, मुझे शक है कि कई प्रदेशों के अन्दर पंचायत के जो मेम्बर एलेक्ट (चुने) होते हैं उनको भी सरकारी नौकर की शक्ल में करार दिया हुआ होगा लेकिन दरअस्ल नम्बरदार का हुकूमत से कोई वास्ता नहीं। फिर भी पंजाब के अन्दर इस बिना पर बहुत से लोगों को डिस्क्वालिफाई (अनर्हत) किया गया और उनको मेम्बरी से हटाया गया कि कहीं पर कोई नम्बरदार, जिसको वह शायद जानता भी नहीं था, उसका पोलिंग एजेंट बन गया। इसलिये मैं यह कहना चाहता हूं कि वर्डस 'ऐंड दि लाइक" में नम्बरदार को नहीं रक्खा जाना चाहिये। मैं उम्मीद करता हूं कि पंजाब और पेप्सू की सरकारें हैं, जो आगे चल कर एक पंजाब की सरकार होगी, वह वर्डस "ऐंड दि लाइक" और 'g' 'जी' उपधारा में नम्बरदार या पंचों को नहीं रखेंगी।

श्री वी० जी० देशपांडे: 'ऐंड दि लाइक' में वह हो सकते हैं।

चौ० रणवीर सिंह: हो सकते हैं, लेकिन मैं चाहता हूं कि न हों। तो मैं उम्मीद करता हूं कि जो स्टेट सरकारें हैं वे इनको शामिल नहीं करेंगी।

इसके अलावा धर्म के नाम पर या जाति के नाम पर भी अपील करना अच्छा नहीं है, चाहे वह अपील चमार के नाम पर हो या किसी दूसरी जाति के नाम पर। बैकवर्ड क्लासेज के नाम पर या एकानमिक बैकवर्डनेस (आर्थिक पिछड़ापन) के नाम पर आज भी अपील हो सकती है, या जो पिछड़े हुए और अंग हैं उनके नाम पर हो सकती है, लेकिन खाली चमार या दूसरी किसी जाति के नाम पर नहीं होनी चाहिये। इसलिये मैं कहना चाहता हूं कि श्री देशपांडे और श्री कामत ने जो बातें कहीं वे फालतू बातें हैं और उनकी आवश्यकता नहीं।

5 P.M.

Shri Kasliwal (Kotah-Jhalawar): I oppose the amendments proposed by Shri Kamath. He has not read the Act at all. Section 135 clearly provides for this. It says that the removal of ballot papers from polling station is an offence. You will be removing it from the category of corrupt practices but, under this section, the removal of a ballot paper is a cognizable offence.

Shri Kamath: You will be punished and not the candidate.

Shri Kasliwal: If it is found in the unlawful possession of the candidate he will also be punished. They are already provided for in section 135 of the Act.

Shri Chatterjee wants the removal of the words 'any other person' from subclause (3) I respectfully submit that he was a co-architect of the clause along with Shri More and he was responsible for the drafting. The Select Committee accepted it. If he had drawn the attention of the Select Committee at that time....

Mr. Deputy-Speaker: He has already told us that he has reconsidered it.

Shri K. K. Basu: No lawyer can stick to his opinion.

Shri Kasliwal: May I respectfully point out that the whole scheme of this clause is such that the words 'by any other person' are to be found in every sub-clause. It relates to undue influence, it relates to bribery etc. Shri Chatterjee wants to remove the words 'by any other person' only in sub-clause (3). Either you remove them from the whole of the clause or keep them as they are. You cannot remove them from one sub-clause and allow them to remain in other sub-clauses.

Shri N. Rachiah (Mysore—Reserved Sch. Castes): Sir, this clause is a very important clause and I think it is very exhaustive. It covers all forms of corrupt practices connected with an election.

Shri Deshpande said with regard to the categorisation of officers that certain officers have been listed and others have been left out, particularly the clerks and others. Sub-clause (7)(g) says:

> "such other class of persons in the service of the Government as may be prescribed."

This will include all officers, including the clerks etc. It is fairly exhasutive.

In my opinion, it is far-fetched idea to say that it is supporting Congress. After all, it is a general law and no government servant, high or low, can participate in an election or canvass support for any candidate including a Minister, if he is a candidate. We are definite about it. If such officials participate they must be punished.

In regard to the particular reference made by Shri Deshpande, I would say that he says that he is opposed to the caste system and yet, at the same time, he wants the *chamar* to be caste-minded. He does not want the higher caste man, the Brahman should be caste-minded. He wants the *chamar* community man, a graduate in M.A. to go to his constituency and ask for votes as a *chamar* to uplift his people. What about the other community people? If he appeals to his own community, what will happen? He must know that it is a general electorate. If I were one of the members of the Election Tribunal or its Chairman, I would disqualify such a person, not for a few years but for 25 years. It is only the Harijans who have been entirely non-communal and not others. They may have had exceptions in the other communities. If we had been communal we would not have been in this position. Because of our sacrifices, because of our non-communal attitude we have suffered all these days. He wants that the Harijan should go and appeal to his community. If any aid or protection is given to us or any encouragement is given to us by the State or by the Central Government in the name of Harijans, we do not want that kind of help at all. We want things to be done in the interest of the nation and in the interest of poor people.

He also wanted that Shri Sampurnanand should be removed. He is not the only person, who is opposed to temple entry I say. There are his followers.

Mr. Deputy-Speaker: The hon. Member has not only the right to speak but he has also the duty to listen. I observed at that time that Sampurnanand has been put in there only as an illustration. Therefore, the hon. Member need not be so particularly nervous about it.

Shri N. Rachiah: He did not mean that he was communal but he only made a reference. I also make a reference and say that because he is the Chief Minister, because he belongs to the Congress, he should not be removed. All caste Hindus who observe untouchability in some form or other should be punished. It is not the issue of a Chief Minister but it is a general issue pertaining to the so-called caste Hindus—whether Brahman or non-Brahman, we do not worry about it. I do not accept....

Mr. Deputy-Speaker: The hon. Member must now conclude.

Shri N. Rachiah: The Harijans should not be asked....

Mr. Deputy-Speaker: The hon. Member must realise the pressure on time.

Pandit Thakur Das Bhargava: Sir, Ch. Ranbir Singh expressed apprehension that the lambardar in Punjab would be included. As I read this clause, I feel that lambardars cannot be included. The words are:

> "revenue officers including village accountants, such as patwaris,

[Pandit Thakur Das Bhargava]

lekhpals, talatis, karnams and the like but excluding other village offiecrs;"

The lambardar can, by no stretch of imagination be called an accountant. I think the idea was that lambardars should be excluded and not included.

Ch. Ranbir Singh: Please read (g).

Pandit Thakur Das Bhargava: So far as (g) is concerned, any person can be included. But can it be likely that after excluding him specifically he will be included in (g). I should thank it will never happen.

Shri Chatterjee was at pains to tell us that we changed 124(5) into a worse section. May I submit for his consideration that he was himself a member of the sub-committee. I do not say that being a party he cannot reconsider and make it better. That is not the position. What I maintain is that when he was a member of the sub-committee which was particularly looking into this question, it could not have escaped his notice. We decided the question in a manner which is absolutely just and proper with his co-operation and consent. The words "from any person" are included in all the definitions, but we have taken good care to see that in clause 54(1) (b) we have said "corrupt practice if committed by the candidate or his election agent or by any person with the consent of the candidate". Otherwise, we have excluded everything. While defining the acts included in 'corrupt practice' naturally the scope should have been larger as bribery remains a bribery if it is practised by a third person but for election petition such act is useless unless committed by candidate's election agent or by agent with the consent of the candidate as defined in clause 65 or clause 54 (b). In the same way, section 124 (5) as it previously existed, was capable of being regarded. We have not changed it but made it narrower because it has been included in 54 (1) (b). In section 123 also we have changed the definition of agent. Previously the definition of agent was given in clause 79, but now we have made it much narrower. We have now accepted the principle that no person should be prejudiced by anything which he has not done or which has not been done by his election agent or done with his consent. If bribery is done by a third party, it is not a corrupt practice for the purpose of election petition unless it is done by the candidate or his agent or with his consent. If Shri Chatterjee looks at this from this standpoint, he will find that everything is right and perfect and the scope of the provision in 124 (5) has not been widened as he thinks.

Mr. Deputy-Speaker: There are some other amendments that hon. Members wish to move. They may do so.

Shri Mulchand Dube: I beg to move:

(1) (i) Page 24, line 35—

omit "or by any other person";

(ii) Page 25, line 19—

omit "or of any other person";

(iii) Page 26—

(a) line 5, *omit* "or by any other person";

(b) lines 11 and 12, *omit* "or by any other person"; and

(c) line 21, *omit* "or by any other person";

(iv) Page 27, lines 4 and 5 *omit* "or, by any other person"

(2) Page 26, lines 30 to 32—

omit "if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power"

(3) Page 27—

omit lines 1 and 2

Sardar Iqbal Singh: I beg to move:

(i) Page 24, line 36—

after "person" *insert:*

"with the connivance of the candidate or his agent"

(ii) Page 25, line 19—

after "person" *insert* "with the connivance of the candidate or his agent"

(iii) Page 26, line 5—

after "person" *insert* "with the connivance of the candidate or his agent"

(iv) Page 26, line 12—

after "person" *insert* "with the connivance of the candidate or his agent"

(v) Page 27—

omit lines 14 to 16.

My amendments Nos. 200 and 203 are the same as Nos. 217 and 236 respectively already moved.

Mr. Deputy-Speaker: These amendments are also before the House.

Shri Pataskar: My task has been considerably lightened by the speeches of the hon. friends, Shri More and Pandit Bhargava. Therefore, I will take the least time that I should.

In clause 65, what we have tride to do is to incorporate the two chapters into one chapter. We have seen the defects that were experienced and now the attempt is to rectify them. Without going into details, I would only say this. There are only two major complaints made. One was with respect to clause (3), dealing with systematic appeal on the grounds of caste, race, etc. As to what it implies the hon. Member, Pandit Bhargava, has already explained, but I would say that of all the clauses in this, if we look at it from a broader point of view, this is one of the most important parts of this Act. After all, hon. Members, who have taken exception to this, will realise that on account of such systematic appeals to religion, we had our country divided. It may not have happened immediately, but may have happened after a considerable time. After having introduced a democratic form of government in this country; if we allow people to canvass on the ground of castes, what will this House consist of? What will be the position? I would only appeal, without going into all the arguments, to the hon. Members to think of the problem a little more seriously than, what I humbly submit, has been done. It is from that point of view that this has been put. If at all we have to develop on right lines, this is the method. I can understand the case of a *chamar* boy not getting employment, but then the problem is one of unemployment in the country which has to be tackled and it will be the duty of every citizen to solve that problem. There are complaints from others also that they do not get employment. It is, therefore, a problem of unemployment and not of *chamars*. Therefore, this is one of the most important provisions; otherwise, this House will consist of people of different castes, communities and religions and I do not know to what condition we will thereby be reduced. I would appeal to those, who have criticised this, not to look at this problem in the way they have done. Some cases may have been decided and some inconvenience may have been caused to somebody somewhere. But look at the problem from the ultimate effect which the absence of such a provision is likely to produce on what we are trying to evolve in this country. I will not take any more time so far as this clause is concerned.

With respect to clause (7), what have we done? As hon. Members are aware, and particularly, Shri Chatterjee, who is dealing with a large number of cases on that point, we had formerly section 123(8) which was worded ".......shall not include any person who has been declared by the Central Government", that is, it was put in a negative form. And in clause (b) we had a long list of daffadars, chowkidars karnams, etc. The Select Committee took into account all the difficulties experienced on account of such a wording and produced this present clause (7), and in (g), the Select Committee has put "such other class of persons in the service of the Government as may be prescribed". This is done purely from the point of view of convenience, and there is no question of party here involved, because the same persons in the different States may be Government servants or may not be Government servants. As Shri More rightly pointed out, in Maharashtra, there will be a number of *patils* in a village and it is difficult to find out who the real Government servant is out of them. Therefore this clause has been put in this form.

I was glad that the hon. Member, Shri Kamath, showed such esteem and regard for the Father of the Nation, but this is not the way to introduce his amendment. When we are talking of a national emblem, why put in Mahatma Gandhi's name? Mahatma Gandhi did not belong merely to the Congress. My friend also might put up a picture of Gandhiji....

Shri Kamath: I do not want to exploit his name as they do.

Shri Pataskar: I am sorry there are people who not only exploit Mahatma Gandhi but who are also exploiting some other factors (*Interruption*). Let us not, therefore, try to introduce Mahatma Gandhi's name here. Probably it may be that in some Congress constituencies such a thing has happened. Of all the Members of this House

[Shri Pataskar]

particularly the hon. Shri Kamath konws all these little abnormalities more than anyone else.

Shri Kamath: I agree.

Shri Pataskar: He has got a knack of collecting these, and I am prepared to concede it. This is not the way to utilise it.

Shri Kamath: But then how?

An Hon. Member: How is it to be utilised?

Shri Pataskar: I would request him to withdraw that amendment and I hope this clause would be passed.

[MR. SPEAKER *in the Chair*]

Mr. Speaker: Which are the amendments to be put to vote separately?

Shri Kamath: Nos. 164 and 165.

Shri V. G. Deshpande: No. 81.

Shri K. K. Basu: No. 197 also.

Mr. Speaker: The question is:

Page 27—

after line 18, *add:*

"(8) Addressing election meetings or canvassing for a candidate by a Minister, Deputy Minister or a Parliamentary Secretary when he is on an official tour."

The motion was negatived.

Mr. Speaker: The question is:

Page 26—

after line 3, *insert:*

"(2A) The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other constituency, he is not entitled to vote.

(2B) The removal of a ballot paper from the polling station during polling hours by a candidate or his agent, or by any other person with the connivance of a candidate or his agent."

Those in favour will please say 'Aye.'

Some Hon. Members: 'Aye'.

Mr. Speaker: Those against will please say 'No'.

Several Hon. Members: 'No'.

Mr. Speaker: I think the 'Noes' have it. The motion is negatived.

Shri Kamath: The 'Ayes' have it.

Mr. Speaker: What is the object? I have no objection.

Shri Kamath: Under the amended rule 385, it is obligatory that the bell should be rung when the result is challenged.

Mr. Speaker: Let him understand the rule. If he wants, I can ring the bell and get all the people here and even then, I can ask hon. Members to rise in their seats. Let the bell be rung—Order, order. I would again put the amendment to the vote of the House.

The question is:

Page 26—

after line 3, *insert*:

"(2A) The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a ballot paper in the name of any other person, whether living or dead, or in a factitious name, or by a person or a ballot paper in his own name, when, by reason of the fact that he has already voted in the same or some other constituency, he is not entitled to vote.

(2B) The removal of a ballot paper from the polling station during polling hours by a candidate or his agent, or by any other person with the connivance of a candidate or his agent."

Those in favour of this will say 'Aye'.

Some Hon. Members: Ayes.

Mr. Speaker: Those against will say 'No'.

Some Hon. Members: No.

Mr. Speaker: The Noes have it.

Shri Kamath: The Ayes have it.

Mr. Speaker: The hon. Members in favour may kindly rise in their seats.

Shri Kamath: Sir, you were pleased to tell the House some days back, that when a matter of principle is involved, you will be willing and ready for a division. I venture to hope and I am sure that endowed as you are with a keen legal acumen and a ripe judgment, you will hold this matter of impersonation as serious enough to be considered a matter of principle unless, of course, Members opposite think that it is a minor matter.

Mr. Speaker: I will gather the voices once again. Let me see. Those in favour of the amendment will please say 'Aye'.

Some Hon. Members: 'Aye'.

Mr. Speaker: Those against will please say 'No'.

Several Hon. Members: 'No'.

Mr. Speaker: I think the 'Noes' have it. The amendment is negatived.

Some Hon. Members: The 'Ayes' have it.

The Lok Sabha divided: Ayes 17; Noes 93.

[5.25 P.M.

AYES

Division. No. 2]

Basu, Shri K. K.
Chakravartty, Shrimati Renu
Chatterjee, Shri N.C.
Chowdhury, Shri N.B.
Deshpande, Shri V. G.
Gadilingana Gowd, Shri
Gupta, Shri Sadhan
Kamath, Shri
Krishnaswami, Dr.
Maitra, Shri M. K.
Mukerjee, Shri H. N.
Nayar, Shri V. P.
Punnoose, Shri
Raghavachari, Shri
Rao, Shri T.B. Vittal
Swami, Shri Sivamurthi
Vallatharas, Shri

NOES

Abdullabhai, Mulla
Achuthan, Shri
Akarpuri, Sardar
Altekar, Shri
Babunath Singh, Shri
Banerjee, Shri
Barman, Shri
Barupal, Shri P.L.
Basappa, Shri
Bhagat, Shri B.R.
Bhakt Darshan, Shri
Bharati, Shri G.S.
Bhargava, Pandit Thakur Das
Bhatt, Shri C.
Bhonsle, Shri J.K.
Bogawat, Shri
Borooah, Shri
Bose, Shri P.C.
Brajeshwar Prashad, Shri
Chanda, Shri Anil K.
Charak, Th. Lakshman Singh
Chatterjee, Dr. Susilranjan
Dabhi, Shri
Damodaran, Shri Nettur P.
Das, Shri B.K.
Das, Shri K. K.
Dhusiya, Shri
Dube, Shri Mulchand
Dutt, Shri A.K.
Dutta, Shri S.K.
Gandhi, Shri Feroze
Ganpati Ram, Shri
Hasda, Shri Subodh
Hazarika, Shri J. N.
Hembrom, Shri
Hyder Husein, Ch.
Ibrahim, Shri
Iqbal Singh, Sardar
Jain, Shri N.S.
Jayashri, Shrimati
Karmarkar, Shri
Kasliwal, Shri
Keshavaiengar, Shri
Khan, Shri Sadath Ali
Khongmen, Shrimati
Kolay, Shri
Lotan Ram, Shri
Malviya, Shri Motilal
Mishra, Shri Bibhuti
Mishra, Shri L. N.
Misra, Shri R. D.
More, Shri K.L.
Nair, Shri C.K.
Narasimhan, Shri C.R.
Naskar, Shri P.S.
Natarajan, Shri
Nehru, Shri Jawaharlal
Nehru, Shrimati Uma
Parekh, Dr. J.N.
Parikh, Shri S.G.
Parmar, Shri R.B.
Pataskar, Shri
Patil, Shri Kanava de
Rachiah, Shri N.
Radha Raman, Shri
Ramanand Shastri, Swami
Ramananda Tirtha, Swami
Ram Dass, Shri
Ram Subhag Singh, Dr.
Ranbir Singh, Ch.
Rane, Shri
Sahu, Shri Bhagabat
Saksena, Shri Mohanlal
Samanta, Shri S. C.
Sen, Shri P. G.
Shah, Shri Raichandbhai
Sharma, Pandit Balkrishna
Sharma, Pandit K. C.
Sharma, Shri R. C.
Singh, Shri D.N.
Sinha, Shri Jhulan
Sinha, Shri K.P.
Suresh Chandra, Dr.
Suriya Prashad, Shri
Tandon, Shri
Thomas, Shri A.M.
Tiwari, Shri R.S.
Tiwary, Pandit D.N.
Uikey, Shri
Vaishya, Shri M.B.
Venkataraman, Shri
Verma, Shri B.R.
Zaidi, Col.

The motion was negatived.

Shri sadhan Gupta : So there are 93 'impersonators'.

Mr. Speaker : I shall now put amendment No. 165.

The question is:

Page 26, line 9—

after "emblem" *insert* "or a pictorial representation of Mahatma Gandhi,"

The motion was negatived.

Mr. Speaker : The question is :

Page 5—

after line 34, *add* :

"(iii) utilise in any way his position as a minister, deputy minister, parliamentary secretary or Vice-Chancellor or similar officer as may be prescribed by the Election Commission before the election, for procuring votes or support from the candidates,"

The motion was negatived.

Mr. Speaker : The question is :

Page 24, line 36—

omit "or, by any other person".

The motion was negatived.

Mr. Speaker : The question is :

Page 25, line 19—

omit "or of any other person"

The motion was negatived.

Mr. Speaker : The question is :

Page 27, lines 4 and 5—

omit "or, by any other person"

The motion was negatived.

Mr. Speaker : The question is :

Page 25,—

after line 34, *add*:

"(iii) makes a systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion, makes use of or appeals to religious symbols or national symbols, such as the national flag or the national emblems, for the furtherance of the prospects of a candidate's election,"

The motion was negatived.

Mr. Speaker : The question is :

Page 27,—

omit lines 8 to 18.

The motion was negatived.

Mr. Speaker : The question is :

Page 27,—

for lines 14 to 16, *substitute*—

"(f) revenue officers ; and"

The motion was negatived.

Mr. Speaker: The question is:

Page 27, line 26—

after "counting agent" *insert* : "or signs the nomination paper as proposer"

The motion was negatived.

Mr. Speaker : The question is :

(i) Page 24, line 35, *omit* "or by any other person" ;

(ii) Page 25, line 19, *omit* "or of any other person" ;

(iii) Page 26—

(a) line 5, *omit* "or by any other person";

(b) lines 11 and 12, *omit* "or by any other person"; and

(c) line 21, *omit* "or by any other persons"; and

(iv) Page 27, lines 4 and 5 *omit* "or, by any other person"

The motion was negatived.

Mr. Speaker : The question is :

Page 26, lines 30 to 32—

omit "if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power".

The motion was negatived.

Mr. Speaker : The question is :

Page 27—

omit lines 1 and 2.

The motion was negatived.

Mr. Speaker : The question is :

Page 26, line 4—

omit "systematic".

The motion was negatived.

Mr. Speaker: The question is:

Page 24, line 36—

after "person" *insert*:

"with the connivance of the candidate or his agent"

The motion was negatived.

Mr. Speaker: The question is:

Page 25, line 19—

after "person" *insert*:

"with the connivance of the candidate or his agent"

The motion was negatived.

Mr. Speaker: The question is:

Page 26, line 5—

after "person" *insert:*

"with the connivance of the candidate or his agent"

The motion was negatived.

Mr. Speaker: The question is:

Page 26, line 12—

after "person" *insert:*

"with the connivance of the candidate or his agent"

The motion was negatived.

Mr. Speaker: The question is:

Page 27—

omit lines 14 to 16.

The motion was negatived.

Mr. Speaker: I shall now put clause 65 to the vote of the House.

The question is:

"That clause 65 stand part of the Bill".

The motion was adopted.

Clause 65 *was aded to the Bill.*

Clauses 66 to 83

Mr. Speaker: The House will now take up the last group, clauses 66 to 83. Is any hon. Member moving any amendment?

Shri N. C. Chatterjee: I beg to move:

Page 30, line 4—

before "Nothing in this Act" *insert:*

"Save as provided in section 140A."

I hope the hon. Minister will accept it. What I am pointing out is that clause 83 should read as follows:

> "Save as provided in section 140A, nothing in this Act shall apply to any election which has been called before the commencement of this Act or to any election petition arising out of such election...." etc.

You will remember that we are going to enact a new section 140A in clause 70, which reads as follows:

> "140A. The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter or reduce the period of any such disqualification."

In order to avoid the legal ingenuity making it abortive or illusory, I want to add the words "Save as provided in section 140A", because, "Nothing in this Act shall apply" may mean that nothing contained in section 140A also shall apply. Therefore, the amendment should be accepted in order to make it clear that the Election Commission's powers is not to be in any way disturbed or fettered by the operation of clause 83.

Shri Kamath: I beg to move:

(i) Page 27,—

after line 29, *insert:*

"66A. *Insertion of new section* 128*A*.—After section 128 of the principal Act, the following section shall be inserted:

'128A. (1) No person who is a Minister in a State Government or in the Central Government shall travel in a State vehicle in any constituency where an election is in progress.

(2) Any person who contravenes the provision of sub-section (1) shall be punishable with imprisonment which may extend to six months or with fine or with both'."

(ii) Page 28—

after line 25, *insert:*

"74A. *Insertion of new section* 151*A*.—After section 151 of the principal Act, the following section shall be inserted:

'151A. A bye-election to fill a vacancy in the House of the People or in a State Legislative Assembly shall be completed not later than six months from the date on which the seat became vacant'."

(iii) Page 29—

after line 23, *add:*

"(c) after sub-section (4), the following sub-section shall be added:

'(5) Where an election has been declared to be wholly void, the deposits shall be returned to all the candidates that contested the election'."

(iv) Page 30, line 4—

before "Nothing in this Act" *insert:*

"In the absence of any provision to the contrary in this Act".

[Shri Kamath]

(v) Page 30, line 10—

after "Election Tribunals" *insert* "except in relation to the removal of disqualification".

(vi) Page 30—

after line 11, *add:*

> "Provided that any disqualification for membership or voting incurred at any time in connection with the first general election shall stand removed except where the disqualification was or is incurred for a corrupt practice defined in the amended section 123."

Mr. Speaker: All these amendments are before the House.

Shri Kamath: My first amendment No. 166 seeks to insert a new section in the principal Act under the heading "Electoral offences", in Chapter 3 of Part VII. We have already listed a number of electoral offences and I would like to add one more to that list, and that is as follows:

> "(1) No person who is a minister in a State Government or in the Central Government shall travel in a State vehicle in any constituency where an election is in progress.
>
> (2) Any person who contravenes the provision of sub-section (1) shall be punishable with imprisonment which may extend to six months or with fine or with both."

Mr. Speaker: How is that in order?

Shri Kamath: It is for you to decide.

Mr. Speaker: Ministers, when they are on official duty, have a right to go in official carriages. Nobody is entitled to canvass at the time of the election when the election is going on. But, these people are entitled to go in official carriages.

Shri Kamath: May I invite your attention of the fact to which I referred two days ago in the course of the general discussion? In England, which is regarded by all as the mother of parliamentary democracy, the Prime Minister, Mr. Attle, during the last general election travelled the whole of the United Kingdom in his own private car—it was reported in the Press—and his wife acted and his chauffeur. He did not have a State vehicle. There the standards are so high, but here in our country, the standards are not so high.

Mr. Speaker: I am not disputing the desirability of any such thing. I do not say that the amendment of the hon. Member is not proper; but, how is it relevant here? We can regulate a candidate, his agent or some other person working for him. While going on official duty, a man in the Ministry is entitled to use the office vehicle. The hon. Member tries to prescribe the conduct of public servants. In their official duties, they can choose any particular conveyance they like. It does not arise out of this matter. That is all. Even without this amendment being passed, the Ministers may follow the other example which has been brought to their notice on the floor of the House.

Shri Kamath: I may refer to the various offences listed in this chapter. They relate not merely to the candidate or agent, but various other persons. Kindly refer to section 129.

Mr. Speaker: The person in charge ought not to go and canvass for anybody.

Shri Kamath: Take section 129: disturbance at election meetings, etc.

Mr. Speaker: All that is right. What conveyance he must use, it ought not to be Government conveyance, how does that affect? Very well.

Shri Kamath: As you have been good enough to rule it in a particular manner, I would only ask the Ministers and the Government to take note of this and adopt the spirit of this amendment and see that they emulate the example of Mr. Attle in the U.K. and not use vehicles right from the I.A.F. dakotas, from the President's plane to ordinary cars in the State. Vehicles include everything, from aerial vehicles to ground vehicles. They should not be misused.

Then, I come to the other amendment. I shall be very brief. Amendment No. 167 seeks to insert another new section about bye-elections to fill vacancies in the House of the People or the State Legislative Assemblies. It says that a bye-election shall be completed not later than six months from the date on which the seat became vacant. I am sorry I am not able to place my finger on the amendment, one of my hon. colleagues on the other side has tabled an amendment—I do not know if he has moved it—to the effect that where the interval between a bye-election and the following general election is less than one year, there should not be a bye-election.

Mr. Speaker: Nobody has moved so far.

Shri Kamath: Here it is in the list. It is very unfair. I saw it this morning. I do not think it is a very desirable amendment at all. As far as it lies in our power, if democracy is to work in our country properly, we have to see to it that no constituency goes unrepresented. It is not a matter of inconvenience to the voters or the prospective candidate. It is a matter of representation in the legislature of the people concerned. If democracy is to function properly and effectively in our country, we have to see that no constituency remains un-represented in Parliament and the State legislatures for a day longer than is absolutely necessary. Therefore I seek to provide that a bye-election should not be delayed more than six months from the date on which the seat became vacant. It may be even less. I would have preferred to make it three months. But, there are difficulties in our country such as the intervention of *parjanaya,* the monsoon, things beyond our control. During the monsoon, it is difficult to hold elections in the rural constituencies, because the roads get blocked and are impassable. Therefore, for four months, if a seat is vacant in April or May, it is very difficult to hold elections till October. That is the only contingency I want to provide for. Apart from that, there should not be any delay in holding a bye-election to the Lok Sabha or the Vidhan Sabhas.

Then, about the return of deposits where an election has been declared to be wholly void, this issue has arisen recently in my constituency. After the election in which Shri Syed Mahmud was declared elected was pronounced void by the Supreme Court, one of the contesting candidates has been crying his best, moving heaven and earth, to get back his Rs. 500, the argument being that when an election is declared wholly void, the inference is that the election has not taken place at all, no proper election took place. Therefore, every contesting candidate must get back his security. It is a plausible argument when the election is wholly void, not the election of the returned candidate alone, and therefore as if the election did not take place at all. It is tantamount to that. Therefore, it stands to reason that in such a contingency the contesting candidates must get back their security deposits. It should be refunded to them.

I would not like to press my amendments Nos. 169, 170 and 171 and would beg leave of you and the House to withdraw them.

I would only conclude by saying that where these electoral offences are concerned, considering that we have now eliminated or removed the offence of personation and the offence of unauthorised removal of ballot papers from the polling booths from the category of offences and corrupt practices, it would be wise if there were more stringent provisions with regard to electoral offences, and particularly with regard to the part played by Ministers on the pretext of official tours. This was referred to by Shri Deshpande. This was a very abnoxious feature in the last elections, and I am constrained to say that many Ministers, from the Prime Minister downwards, spent not merely weeks, but months in constituencies, going about attended by officials. Deputy Commissioners, District Superintendents of Police, going about in vehicles, holding durbars in circuit houses and dak bangalows, transacting official business there and at the same time canvassing, sending for this contractor and that, the forest contractor and other contractors and trying to exercise undue influence over many people.

Shri T. B. Vittal Rao (Khammam): C.P.M.O. vehicles.

Shri Kamath: My friend Shri Vittal Rao reminds me of the C.P.M.O. vehicles. I thank him for that. The C.P. M.O. vehicles were almost commandeered by the State Government of Madhya Pradesh—almost, I do not say all. It is a British company with headquarters in London. Those vehicles were very much in evidence during the elections. I saw a number of them in my own constituency during the general election as well as in the bye-election, and I was told the Chief Minister had just managed to commandeer them for the elections. And that has got a bearing now that that clause is being deleted. The amendment is accepted, but even then I do not know what the rules will prescribe. When those vehicles are commandeered by Government, the cost of petrol and hire must be shown in the election returns

[Shri Kamath]

of the candidates concerned. Therefore, we should be more strict about enforcement of these provisions relating to electoral offences. I would urge the Minister to see that these corrupt practices, irregular practices, are eliminated completely, and that the next elections are as free from these corrupt, irregular and illegal practices as an election in a young democracy can be, and certainly as the elections in the oldest democracy in the world, namely in the United Kingdom, mostly are.

Shri K. L. More: I beg to move:

Page 27—

after line 36 *add*:

"68A. *Amendment of section* 136.—In section 136 of the principal Act, in clause (d) of sub-section (1), after the words 'to any person', the words 'or receives any ballot paper from any person or is in possession of any ballot paper' shall be inserted".

The purpose of the amendment is very clear. Under the existing law, the supply of ballot papers without due authority is an offence, but the receiving of or the possession of any ballot paper without due authority is not an offence. This amendment seeks to remove this lacuna.

I think there was a complaint by my hon. friend Shri Kamath that ballot papers are used in an improper manner, and he cited some complaints from his own constituency. I hope his complaint in regard to the incidence of corrupt practices will be removed if this amendment is accepted. So, I hope Shri Kamath will give his consent to this amendment.

Mr. Speaker: Amendment moved:

Page 27—

after line 36, *add*:

"68A. *Amendment of section* 136.—In section 136 of the principal Act, in clause (d) of sub-section (1), after the words 'to any persons', the words 'or receives any ballot paper from any person or is in possession of any ballot paper' shall be inserted."

Shri S. S. More: As far as clause 83 is concerned, I have got certain difficulties. Suppose, for instance, the Act comes into force on the 1st of October, and a bye-election is held before the 1st of October, and an election petition is filed after 1st October when this Act has come into operation. Even then, the election petition will have to be tried under the provisions of the old Act.

My submission is that if we have effected certain good changes in this measure, the advantage of those changes should be made available to the public and to the persons concerned as early as possible. So, if an election petition is filed subsequent to the commencement of this Act, though the election had been held previous to the commencement of this Act, or to go a step further, if in an election petition which had been filed before the commencement of the Act, the Election Commissioner had not appointed a tribunal, then in all such cases, I would suggest that the procedure we are laying down now, which is ostensibly and obviously a better procedure than what has been obtaining hitherto should be made applicable.

As you know, procedural changes are always applicable retrospectively. So, why should we make a specific exclusion here by means of such a provision? My submission is that if we are convinced that we are doing something good then we should make it applicable to those cases also. After all, it is to the advantage of all the parties concerned, and it will also reduce the expenditure on the part of Government and the other parties. So, this procedure should be made applicable at the earlier stage without any inconvenience.

Shri Pataskar: I accept amendment No. 32 Section 136 of the original Act mentions some electoral offences, and in clause (d) of sub-section (1) it mentions:

> "without due authority supplies any ballot paper to any person;"

So, supply of ballot paper without due authority is an offence. But receiving a ballot paper from any person or being in possession of a ballot paper without due authority. is not an offence. We want to include those things also in the category of offences.

Under the present Act, it is an offence to supply without authority a ballot paper to any person. Amendment No. 32 seeks to provide that the receipt of a ballot paper or being in possession of a ballot paper without due authority is also an offence. I believe that Shri Kamath will find that we are also as anxious to keep the elections fair and free as we possibly can, and from that point of view, I accept this amendment.

With respect to the amendment moved by my hon. friend Shri N. C. Chatterjee, I accept the principle of it. The only change, however, that I would suggest is this.

The hon. Member's amendment provides that before the words 'Nothing in this Act', the words 'Save as provided in section 140A' should be inserted. But the difficulty is that section 140A may not remain there. So, I would suggest the wording 'Save as provided otherwise in this Act'.

Shri N. C. Chatterjee: That is quite all right. Then this section should read: 'Save as otherwise provided in this Act, nothing herein shall apply'. If you will kindly permit me, I will modify my amendment accordingly.

Shri Pataskar: I will accept it in the modified form.

I was glad to note that there was not much of discussion with respect to these clauses except that some suggestions have been made by Shri Kamath. I for one can assure him that I always welcome his criticism, though I may not agree with it.

Shri Kamath: That does not matter.

Shri Pataskar: In Marathi, there is a proverb which means that you should have the house of a person who criticises you just near you so that that makes you better. It is from that point of view that I welcome criticism, though I do not admit all the criticism. I welcome it because it puts a man in the proper position. Of course by *Ninda* I do not mean scandal.....

Shri Kamath: No, no.

Shri Pataskar: So whatever criticism is made, I will certainly note it, though I may not agree with it. Of course, he has his own view with respect to Ministers, Parliamentary Secretaries and others. But there is nothing wrong in such criticism. From that point of view and in that spirit I take into account all the criticism that is made. It is always good to have criticism because that makes you right.

Shri Kamath: Take it in the proper spirit.

Shri Pataskar: These are the two amendments.

Shri Kamath: What is the Minister's reaction to amendments Nos. 167 and 168? It is not that he should accept them.

Shri Pataskar: I know he had referred to some attempt being made by some of his ex-rivals to get back deposits. After all, as hon. Members are aware—and my hon. friend, Shri N. C. Chatterjee knows it perfectly well—when you try to make a law, there will always be people who will try in their own interest to have some interpretation and advantage of the provisions. I do not know what exactly he wants.

Mr. Speaker: When an election is declared wholly void, he wants the return of the deposit, because it must be treated to have not been filed.

Shri Pataskar: We need not go into all those nice things. When a suitable occasion comes, we will see. For the time being, let the position remain as it is.

Shri Kamath: The occasion has come already.

Mr Speaker: I shall first put amendment No. 32 to the vote of the House. Then we shall take up Shri N. C. Chatterjee's amendment as modified.

The question is:

Page 27—

after line 36, *add*:

"68A. *Amendment of section* 136.—In section 136 of the principal Act, in cluase (d) of sub-section (1), after the words 'to any person', the words 'or receives any ballot paper from any person or is in possession of any ballot paper' shall be inserted".

The motion was adopted.

Mr. Speaker: The question is:

"That new clause 68A be added to the Bill".

The motion was adopted.

New clause 68A was added to the Bill

Mr. Speaker: What is the modificacation that Shri N. C. Chatterjee wants in this amendment?

Shri N. C. Chatterjee: My amendment No. 56 as modified will read "Save as provided in this Act, nothing herein shall apply".

Shri Venkataraman: I think the word 'otherwise' may be necessary.

Shri N. C. Chatterjee: "Save as provided otherwise in this Act, nothing herein shall apply".

Mr. Speaker: 'Otherwise' comes first.

Shri N. C. Chatterjee: Save as otherwise provided in this Act, nothing herein shall apply".

Shri Kamath: I am sure you will agree that when voting takes place, there should be quorum.

Mr. Speaker: Let us get through. I think there will be quorum. We are spending away time now.

I shall now put amendment No. 56, as modified, to the vote of the House.

The questions is:

Page 30, line 4—

for "Nothing in this Act" *substitute* "Save as otherwise provided in this Act, nothing herein".

The motion was adopted.

Shri Kamath: I beg for leave to withdraw amendments 169 to 171.

The amendments were, by leave, withdrawn.

6 P.M.

Mr. Speaker: The question is:

"That clause 83, as amended, stand part of the Bill."

The motion was adopted.

Mr. Speaker: The question is:

Page 28—

after line 25, *insert*:

"74A. *Insertion of new section* 151A.—After section 151 of the principal Act, the following section shall be inserted:

'151A. A bye-lection to fill a vacancy in the House of the People or in a State Legislative Assembly shall be completed not later than six months from the date on which the seat became vacant'."

The motion was negatived.

Mr. Speaker: The question is:

Page 29—

after line 23, *add*:

"(c) after sub-section (4), the following sub-section shall be added:

'(5) Where an election has been declared to be wholly void, the deposits shall be returned to all the candidates that contested the election'."

The motion was negatived.

Mr. Speaker: The question is:

Page 27—

after lines 29, *insert*:

"66A. *Insertion of new section* 128A.—After section 128 of the principal Act, the following section shall be inserted:

'128A. (1) No person who is a Minister in a State Government or in the Central Government shall travel in a State vehicle in any constituency where an election is in progress.

(2) Any person who contravenes the provision of sub-section (1) shall be punishable with imprisonment which may extend to six months or with fine or with both.' "

The motion was negatived.

Mr. Speaker: The question is:

"That clauses 66 to 82 stand part of the Bill."

The motion was adopted.

Clauses 66 to 82 were added to the Bill.

Mr. Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1, the Title and the Enacting Formula were added to the Bill.

Mr. Speaker: The hon. Minister may make his motion; I will waive notice.

Shri Pataskar: I beg to move:

"That the Bill, as amended, be passed."

Shri H. N. Mukerjee: On a point of order, Sir, My submission is that the third reading should be postponed to tomorrow. I will draw your attention to Rule, 131(2), which reads as follows:

"If any amendment of the Bill is made, any member may object to any motion being made on the same day that the Bill be passed, and such objection shall prevail unless the Speaker allows the motion to be made."

Mr. Speaker: I am aware of it.

Shri H. N. Mukerjee: It is in your discretion to allow the motion to be made. But, I would like to draw your attention to the fact that you had earlier announced that one hour would be devoted to the third reading of the Bill. I feel that this Bill is of such importance that an opportunity should be given to the House to round off the entire discussion by certain observations which are warranted in the circumstances. In view of the importance of the matter and in view also of the provision in this Rule, that except in special circumstances, the Speaker's discretion will not be used against the language of this particular rule, I submit that the third reading should be postponed till tomorrow. No particular harm would be done if tomorrow we have one hour's discussion on this. I am sure the House will appreciate a kind of rounding off on the different points which has been made.

Shri N. C. Chatterjee: Apart from the rules, I may associate myself with the suggestion made by Shri Mukerjee. We have done a very good job today; we have finished all the clauses of this Bill, which is particularly a very important and quite a controversial measure. I think on the whole we have not in any way done inappropriately or tried to shirk work. Under the circumstances, this may stand over till tomorrow. Let us have one hour tomorrow for the final winding up.

Shri Kamath: And we on this side undertake to sit one hour longer in the next week or the last week in this Session if necessary.

Mr. Speaker: In view of the desire of the House, I agree to it. The hon. Minister has moved his motion, but the discussion on it will take place tomorrow.

6-07 P.M.

The Lok Sabha then adjourned till Half Past Ten of the Clock on Friday the 18th May, 1956.

DAILY DIGEST

[*Thursday*, 17*th May*, 1956]

	COLUMNS
EXTENSION OF TIME FOR PRESENTATION OF REPORT OF JOINT COMMITTEE . .	8671-72
The Lok Sabha concurred in the recommendation of Rajya Sabha for the extension of time for the presentation of the Report of the Joint Committee on the Constitution (Tenth Amendment) Bill, upto 23rd May, 1956. . .	
CONSIDERATION OF BILL . . .	8672-8824
Representation of the People (Second Amendment) Bill, as reported by Select Committee, was further considered. Consideration of clauses was concluded and the discussion on the motion to pass, as amended, was not concluded. . .	
AGENDA FOR FRIDAY, 18th MAY, 1956 . .	
Passing of the Representation of the People (Second Amendment) Bill, as reported by Select Committee, consideration of Life Insurance Corporation Bill, as reported by Select Committee, and Private Members Bills.	

GIPN—S3—129 Lok Sabha—14-3-57—840.